



# MIAMI BEACH

## City Commission Meeting SUPPLEMENTAL MATERIAL

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
April 11, 2006

Mayor David Dermer  
Vice-Mayor Saul Gross  
Commissioner Matti Herrera Bower  
Commissioner Simon Cruz  
Commissioner Luis R. Garcia, Jr.  
Commissioner Jerry Libbin  
Commissioner Richard L. Steinberg

City Manager Jorge Gonzalez  
City Attorney Murray H. Dubbin  
City Clerk Robert E. Parcher

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### ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

### CONSENT AGENDA

#### C7 - Resolutions

- C7C A Resolution Authorizing The City Manager Or His Designee To Submit The Following Grant Funding Requests: 1) Grant Application To The Miami-Dade County Homeless Trust For Funding In An Amount Not To Exceed \$64,000 (For Funding From The 2006 HUD Super NOFA For Homeless Outreach And Placement Activities); And 2) Retroactive Approval For A Grant Application To The Children's Trust, Service Partnership Program For Funding, In An Amount Not To Exceed \$400,000 For The Planning Phase And Pilot Program Of A Service Partnership To Serve Youth (Ages 13-18 Years); Further Appropriating The Grants And Matching Funds, If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To This Application.

(Grants Management)

(Resolution)

**C7 - Resolutions** (Continued)

- C7D A Resolution Approving And Authorizing The City Manager To Issue A Certification Of Consistency With The City's Consolidated Plan To The Housing Authority Of The City Of Miami Beach (HACMB) For Their Annual Plan For Fiscal Year 2006, To Be Submitted By HACMB To The U.S. Department Of Housing And Urban Development (U.S. HUD).  
(Neighborhood Services)  
**(Resolution)**
- C7E A Resolution Authorizing The City Manager To Issue A Certificate Of Consistency With The City's Consolidated Plan To The City's Neighborhood Services Department Office Of Homeless Coordination To Utilize Funds From U.S. Department Of Housing And Urban Development (HUD) To Provide Outreach And Case Management Services To Homeless Individuals In Miami Beach.  
(Neighborhood Services)  
**(Resolution)**
- C7H A Resolution Approving And Authorizing The City Manager And City Clerk To Execute An Interlocal Agreement With Miami-Dade County For A Computerized Parking Ticket Issuing System.  
(Parking Department)  
**(Resolution & Agreement)**
- C7I A Resolution Declaring The Existence Of A Parking Emergency With Respect To Increased Traffic And Parking Demand On The Following Respective Dates For The Following Respective Events; October 6-15, 2006, For The South Florida Auto Show; December 6-10, 2006, For Art Basel; December 31, 2006 - January 1, 2007 For New Year's Eve Event; January 4-8, 2007, For Art Miami; January 12-14, 2007, For Art Deco Weekend; January 26-28, 2007, For Graphics Of The Americas; January 29 - February 4, 2007, For Superbowl Weekend; February 15-19, 2007, For The NMMA Miami International Boat Show; May 24-28, 2007 For Memorial Day Weekend; And August 31 - September 3, 2007 For Labor Day Weekend; Allowing For The Use Of Specified Vacant Surface Lots Citywide.  
(Parking Department)  
**(Resolution)**
- C7L A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Qualifications Received Pursuant To Request For Qualifications (RFQ) No. 08-05/06, For Professional Architectural And Engineering Services For Design, Permitting And Construction Management Of The Atlantic Greenway Network "Beachwalk II" Project, For The City Of Miami Beach; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Coastal Systems International, Inc.; And Should The Administration Not Be Able To Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Negotiate With The Second-Ranked Firm Of BEA International; And Should The Administration Not Be Able To Negotiate An Agreement With The Second-Ranked Firm, Further Authorizing The Administration To Negotiate With The Third-Ranked Firm Of Behar-Ybarra & Associates Of Florida, Inc.  
(Public Works)  
**(Resolution)**

**R7 - Resolutions**

- R7C A Resolution Approving And Officially Adopting The Basis Of Design Report (BODR) For The South Pointe Phase III, IV And V, Neighborhood 12 Right-Of-Way Improvement Project.  
(Capital Improvement Projects)  
**(Resolution)**
- R7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Agreement Between The City And Hazen & Sawyer, P.C., In The Amount Of \$16,683,153, Extending The Term Of The Agreement From The Current Termination Date Of September 2006, To A New Termination Date Of September 2012, To Provide Program Management Services In Accordance With The Existing Agreement, As Amended Herein.  
(Capital Improvement Projects)  
**(Resolution & Agreement)**
- R7F A Resolution Approving The Selection Of A Public Art Commission For South Pointe Park, Entitled "Drift," As Recommended By The Art In Public Places Committee And Neighborhoods/Community Affairs Committee; Further Approving And Authorizing The Mayor And City Clerk To Execute A Contract With The Artist, Iñigo Manglano-Ovalle, In The Amount Of \$500,000, For Design, Creation, And Installation Of The Aforestated Work Of Art; And Further Appropriating Funds, In An Amount Not To Exceed \$500,000, As Follows: \$153,000, Fund - 147 Art In Public Places From South Pointe Park Project; \$135,000, Capital Budget South Pointe Capital Fund – Contribution For South Pointe Area Art In Public Places; And \$212,000, FY 2006 South Pointe Contingency Capital Fund.  
(Tourism & Cultural Development)  
**(Resolution & Agreement)**

**End of Supplemental**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT THE FOLLOWING GRANT FUNDING REQUESTS: 1) GRANT APPLICATION TO THE MIAMI-DADE COUNTY HOMELESS TRUST FOR FUNDING, IN AN AMOUNT NOT TO EXCEED \$64,000 (FOR FUNDING FROM THE 2006 HUD SUPER NOFA FOR HOMELESS OUTREACH AND PLACEMENT ACTIVITIES); AND 2) RETROACTIVE APPROVAL FOR A GRANT APPLICATION TO THE CHILDREN'S TRUST, SERVICE PARTNERSHIP PROGRAM FOR FUNDING, IN AN AMOUNT NOT TO EXCEED \$400,000, FOR THE PLANNING PHASE AND PILOT PROGRAM OF A SERVICE PARTNERSHIP TO SERVE YOUTHS (AGES 13-18 YEARS); FURTHER APPROPRIATING THE GRANTS AND MATCHING FUNDS, IF APPROVED AND ACCEPTED BY THE CITY; AND AUTHORIZING THE EXECUTION OF ALL NECESSARY DOCUMENTS RELATED TO THESE APPLICATIONS.

**WHEREAS**, the Miami-Dade County Community Homeless Trust was created in 1993, and is tasked with the planning and delivery of homeless housing and services in the County; and

**WHEREAS**, the City, through its Neighborhood Services Department, receives funding from the Homeless Trust for its Homeless Outreach Program and proposes applying to the Homeless Trust for funding from its 2006 HUD Super Notice of Funding Availability (NOFA) in an amount not to exceed \$64,000; and

**WHEREAS** funding is administered by the Miami-Dade County Homeless Trust; and

**WHEREAS** the grant does not require matching funds; and

**WHEREAS** the Administration requests approval to submit a grant application to the Miami-Dade County Homeless Trust for funding, in an amount not to exceed \$64,000, for funding from the 2006 Supportive Housing Program Grant Renewal for homeless outreach and placement activities; and

Agenda Item C7C  
Date 4/1-06

**WHEREAS**, the Children's Trust Service Partnership Program provides funding for the planning phase and pilot program of a service partnership; and

**WHEREAS**, the City's proposed project will provide entrepreneur, vocational and personal skills training to youths, ages 13 to 18, while solidifying a sustainable service partnership among Miami Beach providers; and

**WHEREAS** the project will reduce truancy and increase commitment to community among youths while empowering agencies and youths to return to school to learn best practices, establish a commitment to excellence, and build capacity; and

**WHEREAS**, phase one of the proposed project will identify needs and assets among the target population, address the infrastructure and capacity deficiencies of youth providers serving this population, and solidify the agencies' ability to effectively engage and collaborate with one another; and

**WHEREAS**, the pilot project, commencing as the planning phase begins to wind down, will target youth with intensive services utilizing successful business principles and engaging community partners; and

**WHEREAS**, the Children's Trust will further fund a successful Service Partnership, for full operation, with an operational grant, after the completion of the planning phase and pilot program; and

**WHEREAS** the grant does not require matching funds; however the City will leverage existing funding for this project; and

**WHEREAS**, the Administration requests retroactive approval to apply for funding, in an amount not to exceed \$400,000, for the planning phase and pilot program of a Service Partnership Program.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA** that the Mayor and City Commission hereby authorize the City Manager or his designee to submit the following grant funding requests: 1) grant application to the Miami-Dade County Homeless Trust for funding, in an amount not to exceed \$64,000 (for funding from the 2006 HUD Super NOFA for homeless outreach and placement activities); and 2) retroactive approval for a grant application to the Children's Trust, Service Partnership Program, for funding, in an amount not to exceed \$400,000, for the planning phase and pilot program of a Service Partnership to serve youths (ages 13-18 years); further appropriating the grants and matching funds, if approved and accepted by the City, and authorizing the

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.

**ATTEST:**

CITY CLERK

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

Red: Department Agency Date \_\_\_\_\_  
General Counsel

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

David L. ... 4/6/06  
City Attorney Date

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ISSUE A CERTIFICATION OF CONSISTENCY WITH THE CITY'S CONSOLIDATED PLAN TO THE HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (HACMB) FOR THEIR ANNUAL PLAN FOR FISCAL YEAR 2006, TO BE SUBMITTED BY HACMB TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (U.S. HUD).**

**WHEREAS**, on July 30, 2003, the Mayor and City Commission approved the City's Consolidated Plan; and

**WHEREAS**, the Housing Authority of the City of Miami Beach (HACMB) is proposing to submit an Annual Plan to the U.S. Department of Housing and Urban Development (U.S. HUD) as part of the documentation for continued funding for the operation of and subsidies for rental housing programs administered by HACMB; and

**WHEREAS**, U.S. HUD requires that local housing authorities obtain and submit a Certification of Consistency with the Consolidated Plan from the entitlement jurisdiction where the proposed activity is located; and

**WHEREAS**, HACMB has submitted to the City its Annual Plan for Fiscal Year 2006; and

**WHEREAS**, HACMB has requested that the City issue the required Certification of Consistency with the Consolidated Plan; and

**WHEREAS**, in accordance with the City's adopted Consolidated Plan, each request for a Certification of Consistency with the Consolidated Plan requires City Commission review and approval; and

**WHEREAS**, HACMB's Annual Plan for Fiscal Years 2006 includes a Capital Fund Program Statement, and delineates the main goals to be implemented by HACMB; and

**WHEREAS**, the Administration has reviewed the proposed activities of the HACMB's Annual Plan and found them to be consistent with the City's Consolidated Plan.

Agenda Item C7D  
Date 4-11-06



**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA,** that the Mayor and City Commission authorize the City Manager to issue a Certification of Consistency with the City's Consolidated Plan to the Housing Authority of the City of Miami Beach (HACMB) for its Annual Plan for Fiscal Year 2006, to be submitted by the HACMB to the U.S. Department of Housing and Urban Development (U.S. HUD).

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.**

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

T:\AGENDA\2006\apr1106\consent\HACMB Annual Plan 2006\_Resolution.doc

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

*M. McDevitt* 4-7-06  
City Attorney Date

**Certification by State or Local Official of PHA Plans Consistency with  
the Consolidated Plan**

I, Jorge M. Gonzalez the City Manager certify  
that the Five Year and Annual PHA Plan of the Housing Authority of City of Miami Beach is  
consistent with the Consolidated Plan of City of Miami Beach prepared  
pursuant to 24 CFR Part 91.

\_\_\_\_\_  
Signed / Dated by Appropriate State or Local Official

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

M. H. Dull 4-7-06  
City Attorney Date

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ISSUE A CERTIFICATION OF CONSISTENCY WITH THE CITY'S CONSOLIDATED PLAN TO THE CITY'S NEIGHBORHOOD SERVICES DEPARTMENT OFFICE OF COMMUNITY SERVICES TO UTILIZE FUNDS PROVIDED DIRECTLY BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) TO PROVIDE OUTREACH AND CASE MANAGEMENT SERVICES TO HOMELESS INDIVIDUALS IN MIAMI BEACH.**

**WHEREAS**, on July 30, 2003, the Mayor and City Commission adopted the City of Miami Beach Consolidated Plan for Fiscal Years 2003-2007; and

**WHEREAS**, the City's Consolidated Plan is effective for Program Years (PY) 2003/04 through 2007/08; and

**WHEREAS**, the City's Neighborhood Services Department's Office of Community Services has submitted an application to the Miami-Dade County Homeless Trust (Homeless Trust) for a grant to provide outreach and case management services to homeless individuals in Miami Beach for a one-year period; and

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) requires that applicants for Federal funding submit a Certification of Consistency with the Consolidated Plan from the entitlement jurisdiction where the proposed activity is located; and

**WHEREAS**, in accordance with the City's adopted Consolidated Plan, each request for a Certification of Consistency with the Consolidated Plan requires City Commission review and approval; and

**WHEREAS**, the Office of Community Services requests that the City issue a Certification of Consistency with the City's Consolidated Plan; and

Agenda Item C7E  
Date 4-11-06

**WHEREAS**, the Administration has reviewed the proposed activities of outreach and case management for homeless individuals and found them to be consistent with the City's Consolidated Plan.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve and authorize the City Manager to issue a Certification of Consistency with the City's Consolidated Plan to the City's Neighborhood Services Department Office of Community Services to utilize funds provided directly by HUD to provide outreach and case management services to homeless individuals in Miami Beach.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.


ATTEST:

\_\_\_\_\_  
CITY CLERK


\_\_\_\_\_  
MAYOR

F:\WEIG\HSG-CD\EDWARD\Certification of Consistency\2006\CMB\Homeless Cert. Consistency 2006\_Resolution.doc

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

4-7-06  
\_\_\_\_\_  
Date



# Certification of Consistency with the Consolidated Plan

U.S. Department of Housing  
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
(Type or clearly print the following information:)

Applicant Name: City of Miami Beach Office of Community Services

Project Name: Homeless Outreach Program

Location of the Project: 1700 Convention Center Drive  
Miami Beach, FL 33139

Name of the Federal  
Program to which the  
applicant is applying: 2006 U.S. HUD Super NOFA

Name of  
Certifying Jurisdiction: City of Miami Beach

Certifying Official  
of the Jurisdiction  
Name: Jorge M. Gonzalez

Title: City Manager

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

M. H. Dub... 4-2006  
City Attorney Date

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF  
THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND  
AUTHORIZING THE CITY MANAGER AND CITY CLERK TO  
EXECUTE AN INTERLOCAL AGREEMENT WITH MIAMI-DADE  
COUNTY FOR A COMPUTERIZED PARKING TICKET ISSUING  
SYSTEM.**

**WHEREAS**, the Miami-Dade County Clerk of the Courts is vested with the intergovernmental jurisdiction to manage the Parking Violations Bureau, which oversees the collection and disbursement of Parking Violations revenues; and

**WHEREAS**, the County has acquired, at no expense to the City, and will operate a Computerized Parking Ticket Issuing System for use by the Clerk of the Courts; and

**WHEREAS**, the City desires to be part of the County's Computerized Parking Ticket Issuing System; and

**WHEREAS**, Miami-Dade County and the City both endeavor to provide their citizens with optimum parking enforcement services supported by state-of-the-art technology.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute an Interlocal Agreement with Miami-Dade County for a Computerized Parking Ticket Issuing System.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of April, 2006.

\_\_\_\_\_  
**MAYOR**

Attested by:

\_\_\_\_\_  
**CITY CLERK**

SF/sf

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

City Attorney Date 4/19/06

Agenda Item C7H  
Date 4-11-06



## **AGREEMENT**

THIS INTERLOCAL AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "COUNTY") and the CITY OF MIAMI BEACH, a municipal corporation under the State of Florida, (hereinafter referred to as the "CITY").

### **WITNESSETH:**

WHEREAS, the Miami- Dade County Clerk's Office is vested with the intergovernmental jurisdiction to manage the Parking Violations Bureau, which oversees the collection and disbursement of parking violation revenues; and

WHEREAS, in order to capture revenue lost due to illegibility or issue error, as well as to enhance productivity, scofflaw and stolen vehicle enforcement, the Clerk's Office, in coordination with all Miami-Dade County cities, has served as a catalyst in the procurement of a Computerized Parking Ticket Issuing System; and

WHEREAS, the COUNTY intends to acquire, at no expense to the CITY, and will operate a Computerized Parking Ticket Issuing System (hereinafter referred to as the "SYSTEM") for use by the Office of the Clerk (Parking Violations Bureau); and

WHEREAS, the CITY desires to be a part of the COUNTY'S Computerized Parking Ticket Issuing System; and

WHEREAS, the COUNTY and the CITY both endeavor to provide their citizens with the best possible parking enforcement services supported by up-to-date technology,

NOW THEREFORE, for and in consideration of the mutual covenants herein contained, the COUNTY and the CITY do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

**ARTICLE ONE**  
**Responsibilities of the COUNTY**

The COUNTY agrees to:

1. Implement and maintain a Countywide Computerized Parking Ticket Issuing System, which will include all of the equipment listed in ATTACHMENT A and any upgrade to those items listed.
2. Insure that once the SYSTEM has been tested and is fully operational, the COUNTY will make satisfactory arrangements to ensure that the components of the SYSTEM listed in ATTACHMENT A and any upgrade thereto will be serviced when necessary.
3. Provide trained and qualified personnel to operate the SYSTEM at the Parking Violations Bureau and provide support to the municipalities on a seven (7) days a week, 12 hours a day basis (7 A. M. -7 P. M.).
4. Designate a person (hereinafter referred to as "Project Manager") who will be responsible for handling contract administration for the SYSTEM, administer the SYSTEM and handle all issues arising out of, under, or in connection with the SYSTEM, including but not limited to: processing change orders and modifications to the contract; coordinating implementation, installation and maintenance of all equipment necessary to the satisfactory operation of the SYSTEM; and addressing all business and technical issues.

**ARTICLE TWO**  
**Responsibilities of the CITY**

The CITY agrees to:

1. Accept from the COUNTY and utilize the equipment detailed in ATTACHMENT A and any upgrade thereto, which equipment and system will enable the CITY to issue parking tickets, and transmit and receive parking ticket related information.

2. Maintain all functional records and accounts that relate to the SYSTEM (including but not limited to system and officer log-in and log-out, starting and ending citation for each officer and shift, citation transmittal sheets, and data upload and download records) in accordance with Generally Accepted Accounting Principals (GAAP), and provide the COUNTY access to said accounts and records for auditing purposes for the duration of the AGREEMENT.

3. Utilize and operate the SYSTEM and participate in the program as instructed by the COUNTY and as fully as possible during the terms of this AGREEMENT. The CITY shall care for and protect all equipment issued by the COUNTY for which the CITY receives custody.

4. Operate all components of the SYSTEM in full compliance with all operational manuals, rules, and regulations of the COUNTY, and the TERMS AND CONDITIONS of the COUNTY'S agreement with Enforcement Technology, Inc. (hereinafter referred to as the "Contractor") attached to the previous agreement entered into by the COUNTY and the Contractor herein entitled ATTACHMENT B; and to not operate any of the components of the SYSTEM in a negligent manner.

5. Notify the COUNTY immediately regarding the mechanical failure of any components of the SYSTEM.

6. Accept the COUNTY's authority and responsibility for administering the contract on behalf of the CITY with the Contractor, and let the COUNTY's Clerk of Courts, or his designee, act as the Project Manager who will be the COUNTY and the CITY's technical representative for the SYSTEM.

### **ARTICLE THREE**

#### **Financing**

As stipulated in Article One, Responsibilities of the COUNTY, the COUNTY will make all the necessary arrangements to finance the acquisition of the entire SYSTEM. Included in the acquisition will be all of the items described in ATTACHMENT A and any upgrade thereto.

## **ARTICLE FOUR**

### **Right to Offset**

If the CITY fails to meet any of its obligations as set forth in this AGREEMENT and as determined by the COUNTY, and the COUNTY incurs costs, expenses or damages as a result of such failure, the COUNTY, ~~in addition to any other remedies,~~ reserves the right to offset said costs, expenses or damages primarily from any sums due the CITY from any parking ticket revenue source in an amount equal to the COUNTY's cost of equipment assigned to the CITY, and secondarily the County may pursue any other remedies, but subject to the CITY's administrative and legal rights as provided in Article Seven.

## **ARTICLE FIVE**

### **Cancellation**

If the COUNTY determines, in its sole discretion, to discontinue the PROGRAM in whole or in part, then the COUNTY shall have the right to cancel this AGREEMENT, without penalty or stated cause, by giving the CITY ninety (90) DAYS ADVANCE WRITTEN NOTICE by certified mail. However, the COUNTY shall not discontinue the PROGRAM in MIAMI BEACH unless the COUNTY is discontinuing the PROGRAM in one or more other municipalities. Furthermore, if the COUNTY permits any other municipalities to withdraw from this PROGRAM, then the City of Miami Beach shall have the right to cancel this AGREEMENT without penalty or stated cause by giving the COUNTY ninety (90) DAYS ADVANCE NOTICE by certified mail.

## **ARTICLE SIX**

### **Correspondence**

It is understood and agreed that any official notices that result from or are related to this AGREEMENT must be in writing and shall only be considered delivered when done so by certified mail to:

#### **CITY**

City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139  
Attention: Jorge M. Gonzalez, City Manager

#### **COUNTY**

Parking Violations Bureau  
22 NW 1<sup>st</sup> St., 4<sup>th</sup> Floor  
Miami, Florida 33128  
Attention: Deborah G. Hess, Manager

**ARTICLE SEVEN**  
**Settlement of Disputes**

The parties agree that the Clerk of Courts shall be the administrator of this AGREEMENT and shall decide all questions, difficulties and disputes, of whatever nature, which may arise under or by reason of this AGREEMENT and the rendering of services and performance of obligations hereunder, and the Clerk of Court's decisions hereunder shall be binding upon the parties hereto. Nothing contained in this AGREEMENT prevents either party from seeking satisfaction through a court of competent jurisdiction, provided that the administrative remedy of petitioning the Clerk of Courts is first exhausted.

**ARTICLE EIGHT**  
**Terms of the Agreement**

The duration of this AGREEMENT shall be for an initial period of three (3) years, and automatically renewable for two (2) successive terms of one year unless the AGREEMENT is terminated by the COUNTY in its sole discretion. All of its terms and conditions shall remain in full force and effect until such time that the AGREEMENT is terminated or modified by mutual consent and adopted by appropriate action of the Board of County Commissioners and City Commissioners.

**ARTICLE NINE**  
**Assignments**

The CITY's obligations hereunder are not assignable. The CITY shall not assign, transfer, pledge, hypothecate, surrender, or otherwise encumber or dispose of its rights under the AGREEMENT, or any interest in any portion of same, without the prior written consent of the COUNTY, which consent will not be unreasonably withheld.

**ARTICLE TEN**

**Complete Agreement**

No representations or warranties shall be binding upon either party unless expressed in writing herein.

**ARTICLE ELEVEN**

**Modifications**

This AGREEMENT may not be altered, changed or modified except by or with the written consent of the parties and the Clerk of Courts as AGREEMENT administrator.

ATTEST:

CITY OF MIAMI BEACH

By: \_\_\_\_\_

City Clerk

By: \_\_\_\_\_

, City Manager

ATTEST:

CLERK OF COURTS,

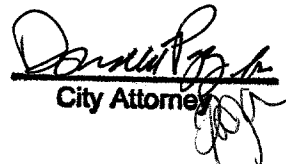
MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_

By: \_\_\_\_\_

Harvey Ruvin, Clerk of Courts

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

4/6/06  
Date

**Attachment A**  
**Hardware / Software Inventory**  
**City of Miami Beach Parking Department**

HARDWARE INVENTORY	
AutoCite FT Series Handheld Computer	34
Charger Multiplexer	9
Personal Computer	1
Bar Code Reader	1

SOFTWARE INVENTORY	
Windows 2000PE or XPPro Oper. Sys	1
PC Anywhere	1
AutoCites PC System	1

## **ENFORCEMENT TECHNOLOGY, INC.**

4129 Avenida De La Plata  
Oceanside, CA 92056  
(760) 945-9893 • Fax (760) 945-5815

"ATTACHMENT B"



### **AutoCITE, AutoISSUE and AutoPROCESS ANNUAL MAINTENANCE AGREEMENT REV. E**

*Enforcement Technology, Inc. (ETEC)* offers a unique Maintenance Agreement, beyond the one-year warranty period, with every AutoCITE hand-held computer, AutoISSUE and/or AutoPROCESS System purchased. This agreement is offered as an additional service to provide the most trouble-free, efficient, cost-effective maintenance for the AutoCITE Systems. This agreement provides the following features:

#### **1. GUARANTEED REPLACEMENT COMPUTERS**

Guaranteed replacement computers for all models currently manufactured by ETEC, upon request, within three working days, are provided at no cost while any repair work is being completed at *Enforcement Technology, Inc.* on any ETEC-manufactured unit requiring repair. Whenever a hand-held computer requires repair, it is the responsibility of the customer to do two things: 1) you must place a call to the engineering service center to get verbal consultation on the problem. 2) If it is deemed necessary to send the unit to ETEC for repair, a Return Material Authorization (RMA) number must be issued by the *Enforcement Technology* Engineering Service Center. *Failure to obtain an RMA number will hinder the turnaround time of the repaired unit.* Then the unit should be shipped from the customer to:

**Enforcement Technology, Inc.  
4129 Avenida De La Plata  
Oceanside, CA 92056  
(760) 945-9893**

That unit should be sent SECOND DAY AIR, referencing the RMA number on the outside of the shipping carton. Upon request, a loaner unit will be sent by the same method to the customer. Return of the loaner unit must also be made via SECOND DAY AIR as soon as your unit is repaired and returned. The customer is responsible for all shipments, including those costs from their facility to the Engineering Service Center.

#### **2. PRIORITY BASIS REPAIRS**

Insures a priority basis for any repair work required. *Enforcement Technology* will repair (or replace it at our discretion) any unit and return it within two weeks from the time it was received.

#### **3. SOFTWARE UPGRADES**

After the customer purchases the system, including purchases of other systems for later expansion, subsequent software enhancements installed at *Enforcement Technology's* discretion to repair a problem or correct system operation, will be provided at no additional cost, as long as the warranty period or annual maintenance period has not expired. *Enforcement Technology* does not normally institute changes in existing versions of AutoCITE, AutoISSUE, and AutoPROCESS to correct problems unless it is the most expedient solution to a problem. Rather, we will provide the latest released version of software compatible with the customer's computer and network environment to remedy any problem. It is ETEC's sole discretion as to which version of firmware or software will be installed, as long as all functionality of the customers purchased modules is maintained.



## **ENFORCEMENT TECHNOLOGY, INC.**

4129 Avenida De La Plata  
Oceanside, CA 92056  
(760) 945-9893 • Fax (760) 945-5815



### **AutoCITE, AutoISSUE and AutoPROCESS ANNUAL MAINTENANCE AGREEMENT REV. E**

#### **4. CUSTOMER INITIATED CHANGES REQUIRING UPGRADES**

In the event a customer requests or requires a software upgrade due to changes in their operating environment, such as but not limited to, changing their operating system or network software or installing new PC hardware, that results in ETEC software incompatibility or inoperability, the customer will be charged for the engineering time, at our current hourly rate, to restore the ETEC software to a functional state. If ETEC decides it is most expedient to upgrade the software to the a newer version the customer will not be charged for the newer software but will still be responsible for the engineering time required to make the customer's ETEC software operate correctly.

#### **5. EQUIPMENT FROM OTHER MANUFACTURERS**

If the customer purchases IBM or other compatible equipment to be used as the AutoISSUE and/or AutoPROCESS Host Computer, through ETEC or elsewhere, then the original manufacturer must provide warranties and maintenance of such equipment. If these Computer System are leased through ETEC, or elsewhere, the warranty and maintenance of the host computer will be provided by the original equipment manufacturer, *not by ETEC*. ETEC will provide consultation and recommendations on corrective actions, which may be necessary.

#### **6. EXCLUSIONS**

The original warranty, this maintenance agreement, and any other annual maintenance agreement shall become invalid if the product hardware or software is or has been abused, misused or altered. The original warranty and this maintenance agreement does not cover damage, including broken displays or touch panels, due to abuse, neglect, mishandling or improper use. Remote access to the AutoISSUE and/or AutoPROCESS PC, via the Internet using PCAnywhere, must be available to Enforcement Technology technical staff in order for the warranty and maintenance agreements to be valid. First response under this agreement will be via the Internet. If the problem cannot be resolved, by telephone or returning the failed component for repair, a customer service representative will respond to the customer site. If our diagnosis of a malfunction of the system indicates the problem is caused by hardware or software not under our warranty or maintenance agreements, such as, but not limited to, the customer hardware which may be running our system or other hardware or software of the customer operating on the same system as our hardware and software, the customer will be billed for travel expenses and labor at our current hourly rate, plus materials, for our diagnosis and investigation of the malfunction.

Paper products used in the AutoCITE, which were not provided through ETEC, are not supported either under warranty or under this agreement. Paper defects or disruption of normal use due to such defects or problems will not be the responsibility of ETEC. Use of paper products not supplied by ETEC, or not adhering to our paper specifications may invalidate this agreement.

If the Warranty or any Annual Maintenance Agreement on any hardware or software has expired, an additional checkout fee will be charged before approval and issue of a new service contract.

**ENFORCEMENT TECHNOLOGY, INC.**

4129 Avenida De La Plata  
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**AutoCITE, AutoISSUE and AutoPROCESS ANNUAL MAINTENANCE AGREEMENT  
REV. E**

**ETEC is not and cannot be responsible for the installation, maintenance or any type of support for the MS WINDOWS Operating Systems, ORACLE Data Base Server software or any other third party software or hardware.**

**7. NORMAL USAGE**

The customer agrees not to alter the System components in any manner and agrees to operate them under normal working conditions. If any hardware components should be damaged, while in the possession of the customer by other than normal usage, the repair cost will be a maximum of \$1,995.00 (for major damage) per unit damaged. If any hardware component should be lost, stolen, or damaged beyond repair, the total replacement cost shall be the original purchase price of the equipment (Example: AutoCITE Model Series 3 = \$3,200).

This maintenance agreement is the yearly maintenance contract which is being offered to you as a continuation of the original one-year warranty that was included as part of the purchase price. It can be extended each year, or renewed, for a small additional cost, and the execution of a new maintenance agreement each year. The attached schedule shows the coverage period and the cost of this agreement for the coming 12-month period. To avoid repair cost and keep your system under maintenance protection, please include your check for the indicated amount and execute this maintenance agreement by signing and returning a copy with your check.

City or Agency Representative:

Name: DEBORAH G. HESS

Title: MIAMI-DADE COUNTY COURT  
PARKING VIOLATIONS BUREAU

Date: MANAGER  
03/07/06

Agency:

Enforcement Technology, Inc.:

for  
Name: Steve D. Borso

Title: Engineering Director

Date: 2/2/06

# ENFORCEMENT TECHNOLOGY, INC.

4129 Avenida De La Plata  
Oceanside, CA 92056  
(760) 945-9893 • Fax (760) 945-5815



## AutoCITE and AutoPROCESS SOFTWARE AND FIRMWARE USER LICENSE AGREEMENT

Rev. D

The firmware provided with the AutoCITE handheld computers and the AutoISSUE and AutoPROCESS host software installed on the PC and/or Server systems are proprietary products of *Enforcement Technology, Inc.*, (ETEC) and protected under United States copyright laws. Therefore you must treat these firmware and software products accordingly.

The firmware and software contained within the AutoCITE computer is not to be copied or reproduced in any form for any reason. The software provided for installation on your PC and/or Server systems (AutoISSUE and AutoPROCESS host systems) may be copied for archival purposes only and may not be used on more central processing units (CPU) concurrently, than the number of purchased licenses, without prior written approval from ETEC. These licenses are for the sole use of the purchasing agency and cannot be used by or for any other agency or department without prior written approval by ETEC. This firmware or software can not be provided to any other unlicensed user, under any circumstances.

In the event of loss, misplacement or damage of the original software or archive copies, ETEC will provide an additional copy upon request, at an appropriate cost for ETEC time and materials to produce and deliver such copy.

Any misuse, tampering, attempts to open the AutoCITE handheld computer, or copying the AutoCITE, AutoISSUE or AutoPROCESS firmware or software, or any other reproductions not specifically authorized by ETEC, will violate and void this agreement.

ETEC is not and cannot be responsible for the installation, maintenance or any type of support for the MS WINDOWS Operating Systems, ORACLE Data Base Server software or any other third party software or hardware.

ETEC shall not in any case be liable for special, incidental, consequential, indirect or direct costs, including but not limited to, those incurred as a result of loss of profits or revenue, loss of use of any computer program, loss of data, costs for recreating data, and the costs of any substitute programs or for other similar costs.

City or Agency Representative:

Enforcement Technology, Inc.:

Name: DEBORAH G. HESS

Title: MIAMI-DADE COUNTY COURT

Title: PARKING VIOLATIONS BUREAU

Date: MANAGER

03/07/06

Name: Steven D. Borso

Title: Engineering Director

Date:

2/2/06

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DECLARING THE EXISTENCE OF A PARKING EMERGENCY WITH RESPECT TO INCREASED TRAFFIC AND PARKING DEMAND ON THE FOLLOWING RESPECTIVE DATES FOR THE FOLLOWING RESPECTIVE EVENTS: OCTOBER 6-15, 2006, FOR THE SOUTH FLORIDA AUTO SHOW; DECEMBER 6-10, 2006, FOR ART BASEL; DECEMBER 31, 2006 – JANUARY 1, 2007, FOR NEW YEAR'S EVE EVENT; JANUARY 4-8, 2007, FOR ART MIAMI; JANUARY 12-14, 2007, FOR ART DECO WEEKEND; JANUARY 26-28, 2007, FOR GRAPHICS OF THE AMERICAS; JANUARY 29 - FEBRUARY 4, 2007, FOR SUPERBOWL WEEKEND; FEBRUARY 15-19, 2007, FOR THE NMMA MIAMI INTERNATIONAL BOAT SHOW; MAY 24-28, 2007, FOR MEMORIAL DAY WEEKEND; AND AUGUST 31 – SEPTEMBER 3, 2007, FOR LABOR DAY WEEKEND; FURTHER ALLOWING FOR THE USE OF SPECIFIED VACANT SURFACE LOTS CITYWIDE FOR SELF PARKING AND VALET PARKING OPERATIONS, DURING THE AFOREMENTIONED EVENTS.

**WHEREAS**, the City has historically experienced parking shortages during major events such as Art Deco Weekend, Art Basel, International Association of Chief of Police (IACP), Memorial Day Weekend, the NMMA Boat Show, Graphics of the Americas, and the Auto Show; and

**WHEREAS**, during these various special events and weekends throughout the year, severe parking demand has historically lead to mobility problems and ultimately gridlock on our City's roadway system; and

**WHEREAS**, the Administration has found that allowing for the use of vacant surface parking lots for additional parking opportunities during high impact events, coupled with an enhanced park and ride circulator program service, has alleviated the mobility problems and gridlock anticipated during these event periods.

**WHEREAS**, the Administration shall require parking operators and/or lot owners to secure the appropriate insurance and Occupational Licenses, as required by the City Code, to operate any referenced lots for self-parking and/or valet parking, for these events.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and Commission declare a parking emergency on the following respective dates for the following respective events: October 6-15, 2006, for the South Florida Auto Show; December 6-10, 2006, for Art Basel; December 31, 2006 – January 1, 2007, for New Year's Eve Event; January 4-8, 2007, for Art Miami; January 12-14, 2007, for Art Deco Weekend; January 26-28, 2007, for Graphics of the Americas; January 29 –

Agenda Item C7I

Date 4-11-06

February 4, 2007, for Superbowl Weekend; February 15-19, 2007, for the NMMA Miami International Boat Show; May 24-28, 2007, for Memorial Day Weekend; and August 31 – September 3, 2007, for Labor Day Weekend; further allowing for the use of specified vacant surface lots citywide for self-parking and valet parking operations, during the aforementioned events.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.**


\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

JMG/RCM/SF  
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**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney      4-7-06      Date

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF QUALIFICATIONS RECEIVED PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 08-05/06, FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR DESIGN, PERMITTING AND CONSTRUCTION MANAGEMENT OF THE ATLANTIC GREENWAY NETWORK "BEACHWALK II" PROJECT, FOR THE CITY OF MIAMI BEACH; AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE TOP-RANKED FIRM OF COASTAL SYSTEMS INTERNATIONAL, INC.; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH THE TOP-RANKED FIRM, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH THE SECOND-RANKED FIRM OF BEA INTERNATIONAL; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH THE SECOND-RANKED FIRM, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH THE THIRD-RANKED FIRM OF BEHAR-YBARRA & ASSOCIATES OF FLORIDA, INC.**

**WHEREAS**, the purpose of the Beachwalk II Project is to create a multi-purpose public access corridor, within a public easement, which runs along the western edge (upland side) of the sand dunes, immediately east of the beachfront properties, in the South Beach area; and

**WHEREAS**, the Beachwalk II Project will establish a southern link between Lummus Park and South Point Park. The Project will be a 0.6 mile (approximately 3,100 feet) path running north-south, west of the dune system, and east of Ocean Drive; and

**WHEREAS**, the Beachwalk II Project will be developed in a "greenway" or linear park setting to accentuate the area's natural resources, historical architecture, and cultural heritage; and

**WHEREAS**, the Beachwalk II Project is funded by \$1 million dollars in Transportation Enhancement Project (TEP) Funds and will be augmented with \$3.6 million in South Pointe Redevelopment Agency (RDA) Funds; and

**WHEREAS**, Request for Qualifications (RFQ) No. 08-05/06 was issued on December 12, 2005 with an opening date of January 27, 2006; and

**WHEREAS**, a pre-proposal conference to provide information to firms considering submitting a response was held on January 12, 2006; and

**WHEREAS**, the following firms provided a response to this RFQ:

- Behar-Ybarra & Associates of Florida, Inc;
- BEA International;
- Coastal Systems International, Inc; and

**WHEREAS**, the City Manager via Letter to Commission (LTC) No. 025-2006, appointed an Evaluation Committee ("the Committee") consisting of the following individuals:

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Date 4-11-06

- Jordanna Rubin, Environmental Resources Manager, City of Miami Beach (Chair);
- Thomas Mooney, Preservation and Design Manager, Planning Department;
- Maria Echeverry, Transportation Manager; City of Miami Beach
- John Oldenberg, Parks and Recreation Department, City of Miami Beach;
- Gabrielle Redfern, CMP Bikeways Committee Member, Resident
- Melissa Keeley, South Beach Resident, Leadership Academy Graduate;
- Tui Munday, South Beach Resident, Leadership Academy Graduate; and

**WHEREAS**, on March 6, 2006, the Committee convened for its meeting; the Committee was provided information on the scope of the Project by Jordanna Rubin, Environmental Resources Manager, and staff from the City's Procurement Division; and

**WHEREAS**, after interviewing all three firms, the Committee discussed its analysis of each firm and ranked all three firms; and

**WHEREAS**, the Committee ranked the firms as follows:

- 1) Coastal Systems International, Inc.;
- 2) BEA International;
- 3) Behar-Ybarra & Associates of Florida, Inc.; and

**WHEREAS**, the Manager has reviewed the findings of the Committee and concurs with its recommendation.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby authorize the recommendation of the City Manager pertaining to the ranking of qualifications received pursuant to the Request For Qualifications (RFQ) No. 08-05/06, for Professional Architectural and Engineering Services for Design, Permitting and Construction Management of the Atlantic Greenway Network "Beachwalk II" Project, for the City of Miami Beach; authorizing the Administration to enter into negotiations with the top-ranked firm of Coastal Systems International, Inc.; and should the Administration not be able to negotiate an Agreement with the top-ranked firm, authorizing the Administration to negotiate with the second-ranked firm of BEA International; and should the Administration not be able to negotiate an Agreement with the second-ranked firm, authorizing the Administration to negotiate with the third-ranked firm of Behar-Ybarra & Associates of Florida, Inc.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION



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\_\_\_\_\_  
City Attorney

4-2-06  
\_\_\_\_\_  
Date

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND OFFICIALLY ADOPTING THE BASIS OF DESIGN REPORT (BODR) FOR THE SOUTH POINTE PHASE III, IV AND V, NEIGHBORHOOD-12 RIGHT-OF-WAY IMPROVEMENT PROJECT.**

**WHEREAS**, the South Pointe Phase III, IV and V, Neighborhood 12, Right-of-Way Improvement Project includes improvements to the stormwater collection and disposal system, water distribution system, roadway resurfacing, streetscape, landscape, traffic calming, pedestrian lighting and linkages within the right-of-way (the Project); and

**WHEREAS**, the Project limits are bounded by Ocean Drive to the east and Alton Road to the west, and include: 1st Street, between Alton Road and Ocean Drive; Commerce Street, from Alton Road to Washington Avenue; Ocean Drive and Ocean Court, from 5th Street to South Pointe Drive; Collins Avenue and Collins Court, from 5th Street to South Pointe Drive; South Pointe Drive/Biscayne Street, from Alton Road to eastern street end; Alton Road, from 5th Street to South Pointe Drive; Jefferson Avenue, between South Pointe Drive and 1st Street; 1<sup>st</sup> Street, from Alton to Jefferson Avenue; and Commerce Street; and

**WHEREAS**, the Project budget is currently estimated at \$9.7 Million, for streetscape improvements; \$2 Million for water improvements; and \$6.4 Million for stormwater improvements; all for a total of \$18.1 Million; and

**WHEREAS**, on November 25, 2003, the City Commission authorized the issuance of Request for Qualifications (RFQ) No. 08-03/04 for Professional Engineering, Urban Design, and Landscape Architecture Services for the Project; and

**WHEREAS**, on February 17, 2004, responses to the RFQ were received; the Selection Committee was convened on July 13, 2004, ranked the responding firms, and Chen & Associate (C&A) was the top ranked firm; and

**WHEREAS**, on September 8, 2004, the City Commission approved Resolution No. 2004-25664, authorizing negotiations with C&A; and

**WHEREAS**, on May 18, 2005, the City Commission authorized the execution of an Agreement with C&A to provide engineering, urban design, architecture, services for the planning, design, bid and award, and construction administration phases of the Project; and

**WHEREAS**, on June 10, and 17, 2005, the Project kick-off meeting with various City Departments, and Site Reconnaissance visit were held, respectively; and

**WHEREAS**, on October 5, 2005, a Visioning Session was held with all the relevant City Departments; and

**WHEREAS**, on November 28, 2005, Community Design Workshop No. 1 was held, and residents and business owners supported the recommended plan presented by C&A; and

**WHEREAS**, the Administration presented the draft BODR for the Project as an informational item during the April 3, 2006 General Obligation Bond Oversight Committee meeting; and

Agenda Item R7C  
Date 4-11-06



**WHEREAS**, the BODR was also presented as an informational item at the April 10, 2006 Historic Preservation Board (HPB) meeting; and

**WHEREAS**, consensus was achieved at the aforementioned meetings, including additional feedback from City staff, and

**WHEREAS**, staff from the various City Departments has been involved in the planning process from the Project inception, and no changes to the recommended plan in the BODR are anticipated; and

**WHEREAS**, the final BODR, with Departmental input, will be the basis for the improvements; and

**WHEREAS**, the current schedule calls for completion of the Design Phase of the Project in 2007; and

**WHEREAS**, the Administration recommends approval of the South Pointe Phase III, IV and V, Neighborhood-12, Right-of-Way Improvement Project Basis of Design Report (BODR), as submitted; and

**WHEREAS**, by approving this BODR the City will officially end the planning phase and proceed to the design phase of the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve and officially adopt the Basis of Design Report (BODR) for the South Pointe Phase III, IV and V Neighborhood-12 Right-of-Way Improvement Project.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**MAYOR**

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

 4-7-06  
\_\_\_\_\_  
City Attorney Date

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY AND HAZEN & SAWYER, P.C., IN THE AMOUNT OF \$16,683,153, EXTENDING THE TERM OF THE AGREEMENT FROM THE CURRENT TERMINATION DATE OF SEPTEMBER, 2006, TO A NEW TERMINATION DATE OF SEPTEMBER, 2012, TO PROVIDE PROGRAM MANAGEMENT SERVICES IN ACCORDANCE WITH THE EXISTING AGREEMENT, AS AMENDED HEREIN.**

**WHEREAS**, pursuant to Request for Qualifications (RFQ) No. 102-99/00, the Mayor and City Commission adopted Resolution No. 2001-24247, on January 31, 2001, approving and authorizing the Mayor and City Clerk to execute the Agreement with Hazen & Sawyer P. C. (Consultant) , for Professional Services to Manage Construction within the City's Public Right-of-Way (the Program) (the Agreement); and

**WHEREAS**, the Agreement provided for the Consultant to manage the activities of other City consultants with the planning, design, bid, award and construction of approximately \$140 million streetscape / landscape / utility improvements projects within the City's thirteen neighborhoods; and

**WHEREAS**, the Agreement was executed for a not-to-exceed amount of \$13,138,884 and for a duration of 5.75 years (through Fiscal Year 2006); and

**WHEREAS**, through extensive planning and design efforts completed to date, the Program has increased in total value from approximately \$140 million to \$320 million; and

**WHEREAS**, the current \$320 million Program value represents a one hundred and thirty percent (130%) increase to that represented in the Agreement, and requires an extension of the Program implementation schedule from Fiscal Year 2006, through Fiscal Year 2012; and

**WHEREAS**, the attached Amendment No. 1 to the Agreement provides for extension of the Consultant's services to continue to provide necessary Program services as detailed in the original Agreement scope of services and as amended herein (Schedule A-1); and

**WHEREAS**, Amendment No. 1, in the amount of \$16,683,153, includes a credit to the City of \$2,709,000 in unexpended funds from the original Agreement, primarily due to the transfer of resident project representative duties from the Agreement to the City's individual Design Professionals on the Program; and

**WHEREAS**, the CITY's Capital Improvement Projects (CIP) Office, would recommend that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute the following Amendment No. 1.

Agenda Item R7D  
Date 4-11-06

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA,** that the Mayor and City Commission hereby approve and authorize the Mayor and City Clerk to execute the attached Amendment No. 1 to the Agreement between the City and Hazen & Sawyer, P. C., in the amount of \$16,683,153, extending the term of the Agreement from the current termination date of September, 2006, to a new termination date of September, 2012, to provide Program Management Services in accordance with the existing Agreement, as amended herein.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006

ATTEST:

\_\_\_\_\_  
City Clerk

By \_\_\_\_\_

MayorT:\AGENDA\2006\apr1106\Regular\H&SAmendmentNo1Reso.doc

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

4-9-06  
\_\_\_\_\_  
Date

**AMENDMENT NO. 1  
TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF MIAMI BEACH, FLORIDA  
AND  
HAZEN AND SAWYER, P.C.  
DATED JANUARY 31, 2001**

**FOR PROGRAM MANAGEMENT SERVICES TO MANAGE CONSTRUCTION  
PROJECTS WITHIN THE CITY'S PUBLIC RIGHT-OF-WAY PURSUANT TO  
REQUEST FOR QUALIFICATIONS (RFQ) NO. 102-99/00 (THE AGREEMENT)**

This Amendment No. 1 to the Agreement made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF MIAMI BEACH, a Municipal Corporation existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida 33139 (hereinafter referred to as CITY), and HAZEN AND SAWYER, P.C., a New York corporation having offices at 4000 Hollywood Blvd., Suite 750N, Hollywood, Florida 33021 (hereinafter referred to as CONSULTANT).

**RECITALS**

**WHEREAS**, pursuant to Request for Qualifications (RFQ) No. 102-99/00, the Mayor and City Commission adopted Resolution No. 2001-24247, on January 31, 2001, approving and authorizing the Mayor and City Clerk to execute the Agreement with CONSULTANT, for Professional Services to Manage Construction within the City's Public Right-of-Way (the Program); and

**WHEREAS**, the Agreement provided for the CONSULTANT to manage the activities of other CITY consultants with the planning, design, bid, award and construction of approximately \$140 million streetscape / landscape / utility improvements projects within the City's thirteen neighborhoods; and

**WHEREAS**, the Agreement was executed for a not-to-exceed amount of \$13,138,884 and for a duration of 5.75 years (through Fiscal Year 2006); and

**WHEREAS**, through extensive planning and design efforts completed to date, the Program has increased in total value from approximately \$140 million to \$320 million; and

**WHEREAS**, the current \$320 million Program value represents a one hundred and thirty percent (130%) increase to that represented in the Agreement, and results in the extension of the Program implementation schedule from Fiscal Year 2006, through Fiscal Year 2012; and

**WHEREAS**, this Amendment No. 1 provides for extension of the CONSULTANT's services to continue to provide necessary Program services as detailed in the original Agreement scope of services and as amended herein (Schedule A-1),

**WHEREAS**, this Amendment No. 1, in the amount of \$16,683,153, which includes a credit to the City of \$2,709,000 in unexpended funds from the original Agreement, primarily due to the

transfer of resident project representative duties from the Agreement to the City's individual Architectural/Engineering (A/E) consultants on the Program; and

**WHEREAS**, the CITY's Capital Improvement Projects (CIP) Office, would recommend that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute the following Amendment No. 1.

**NOW, THEREFORE**, the parties hereto, and in consideration of the mutual promises, covenants, agreements, terms, and conditions herein contained, and other good and valuable consideration, the respect and adequacy are hereby acknowledged, do agree as follows:

1. **ABOVE RECITALS**

The above recitals are true and correct and are incorporated as a part of this Amendment No. 1.

2. **MODIFICATIONS**

Exhibit B to the Agreement, entitled "Scope of Services, Program Management Services to Manage Construction Projects within the Public Right of Way", is amended, as provided in Schedule "A-1", attached hereto and incorporated herein.

3. **OTHER PROVISIONS.**

All other provisions of the Agreement, as amended, are unchanged.

4. **RATIFICATION.**

The CITY and CONSULTANT ratify the terms of the Agreement, as amended by this Amendment No. 1 and Schedule A-1.

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment No. 1 to be executed in their names by their duly authorized officials as of the date first set forth above.

ATTEST:

**CITY OF MIAMI BEACH**

\_\_\_\_\_

By \_\_\_\_\_

City Clerk

Mayor

ATTEST :

CONSULTANT:

**HAZEN AND SAWYER, P.C.**


\_\_\_\_\_

By \_\_\_\_\_

Gary W. Bors, Vice President

Patrick A. Davis, Senior Vice President

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

 4-2-06  
City Attorney Date

## SCHEDULE "A-1"

### AMENDMENTS TO ORIGINAL AGREEMENT AND SCOPE OF SERVICES (EXHIBIT B THERETO) BETWEEN THE CITY OF MIAMI BEACH, FLORIDA, AND HAZEN AND SAWYER, P. C., FOR PROGRAM MANAGEMENT SERVICES TO MANAGE CONSTRUCTION PROJECTS WITHIN THE PUBLIC RIGHT-OF-WAY PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 102-99/00

The Agreement is amended as follows:

1. Replace Article 6.4.1 of the Agreement with the following:

"6.4.1 The term Hourly Billing Rate Method with respect to Consultant and its Key Personnel and certain identified subconsultants, shall mean the hourly billing rates as shown in Exhibit C-1, attached and incorporated hereto, and which includes the actual direct labor cost rate and overhead rate plus a margin on the direct labor costs. Commencing on October 1, 2006, the Hourly Billing Rate Schedule shown in Exhibit ~~F~~ C-1 may be adjusted annually based upon the Miami – Fort Lauderdale Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics. Such adjustment shall be calculated by multiplying the ratio of the April index divided by the previous year's index by the Hourly Billing Rates to define the new Hourly Billing Rates; however, that the annual increase for any such year shall not exceed and shall be capped at a maximum of ~~4%~~ 3% during any given year throughout the duration of this Agreement.

2. Exhibit B entitled, "Scope of Services, Program Management Services to Manage Construction Projects within the Public Right of Way", is amended as follows:

a. Revise Task 1.5 – Document Control System after the first paragraph to include the following:

- Upon CITY request, the CONSULTANT shall utilize E-Builder software for document control purposes during the construction phase of projects. This will replace the use of Primavera Expedition software on these projects. The CITY will also require that Design Professionals and construction Contractors obtain applicable licenses and training to participate in the E-Builder Program as required. The CONSULTANT shall assist the CITY assigned E-Builder Administrator with coordination of general set-up procedures on individual projects, on an as needed basis. In this effort, the CITY retains responsibility for coordinating Design Professionals and construction Contractor participation on the Program.

b. Revise the first paragraph of Task 3.5 – Design Reviews as follows:

The CITY prides itself on maintaining open lines of communication with its citizens. Hence, it is anticipated that ~~up to three (3)~~ **two (2)** public meetings will be held for each Project during the design phase to ensure that community input is received and that citizens are kept informed on the content and status of the various Projects. **The first meeting shall be the Community Design Review Meeting (CDRM) to be held on or about the 60% design completion stage point. The second meeting shall be the Construction Kick-Off Meeting, and will be held after the Project construction contract has been awarded.** CONSULTANT shall attend these meetings with the respective A/E consultant and appropriate CITY representatives, as required.

c. Revise the first paragraph of Task 3.6 – Permitting Assistance as follows:

It is assumed that the respective Design Professionals will be responsible for preparing and submitting permit applications for their Projects, attending all resulting meetings, and for responding to all requests for information (RFI's) from jurisdictional agencies. CONSULTANT does not anticipate attendance at these meetings. ~~However, the CONSULTANT shall be the responsible party for formally transmitting and receiving permits to and from the respective Agencies.~~ **However, the Design Professionals shall be the responsible parties for formally transmitting and receiving permits to and from the respective Agencies.** CONSULTANT shall track and monitor progress on the preparation and review of permits and subsequent requests for information. In addition, the CONSULTANT shall develop and maintain a database that identifies all permits that may be needed for all Projects. This database shall identify the specific permit(s) required for each Project, the timing for when the permit is needed, the individual responsible for preparing the permit, and the current status of the permit and any related RFI's and responses.

d. Replace Task 4.11 – Progress Payment Requests with the following:

CONSULTANT shall receive, **log, distribute** and review monthly invoices submitted by the Contractors to ascertain accuracy and prepare payment requests in accordance with CITY procedures. Based upon the Project records, **discussions with the CONSULTANT's Regional Construction Monitor(s) and discussions with the Design Professional's furnished Resident Project Representatives**, as well as CONSULTANT's observations at the site and evaluations of the data reflected in Contractor's application for payment, CONSULTANT shall render a recommendation to CITY concerning the amount owed to the

Contractors and shall forward the Contractor's application for such amount to CITY. Such approval of the application for payment shall constitute a representation by CONSULTANT **and the Design Professionals** to CITY, based on observations and evaluations, that:

- (a) The work has progressed to the point indicated;
- (b) The work is in substantial accordance with the Contract Documents; and
- (c) The Contractor is entitled to payment in the recommended amount

CONSULTANT shall assist CITY staff with tracking and expediting of progress payments through the CITY Accounting Department.

Deliverables - Receive, **log, distribute** and review Contractor monthly Requests for Payment.

- Verify, **with Design Professional's Resident Project Representative (RPR) assistance**, that all required supporting documentation, such as record drawing maintenance, monthly progress schedule update, release of liens and certifications are submitted with Contractor's Request for Payment.

Schedule - Ongoing throughout Program.

e. Replace TASK 5 – FIELD OBSERVATION PROGRAM MANAGEMENT SERVICES with the following:

CONSULTANT shall provide **three** full-time **Regional Construction Monitors (RCMs)** observers to provide adequate review of quantity and quality of **Design Professional's furnished Resident Project Representatives (RPRs) and construction Contractor activities to monitor reasonable compliance** observation personnel to reasonably ~~with the~~ verify that critical elements of the construction projects **and** are being complied with and that the general intent of the contract documents is being met.

**As noted above, it is understood that Design Professionals will furnish full-time RPR's to monitor compliance of construction Contractors with the intent of their respective contract documents.**

The purpose of CONSULTANT's **RCM's** Construction Observation services is to provide for the CITY a greater degree of confidence that the completed work of will



conform in general to the construction contract documents and that the integrity of the design concept of the various projects as indicated in the contract documents has been implemented and preserved by the construction contractors. CONSULTANT shall not supervise, direct or have control over any RPR and/or construction Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the construction Contractors, for safety precautions and programs incident to the work of any construction contractor or for any failure of a construction Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor's furnishing and performing the work. Accordingly, CONSULTANT neither guarantees the performance of any RPR and/or Contractor, nor assumes responsibility for any RPR and/or Contractor's failure to furnish and perform its work in accordance with the contract documents.

CONSULTANT's level of effort is based upon ~~73,172~~ 31,200 man-hours of field representation and includes the provision of three RCM's – each assigned to monitor Right of Way (ROW) improvement projects under construction in one of three specific City of Miami Beach regions (North Beach, Mid-Beach, South Beach), as noted on the attached manpower Schedule B-1. Should this level of effort be exceeded or decreased, an equitable adjustment will be made accordingly, based on the hourly rates set forth in the Schedule B-1.

The CONSULTANT's RCM's field staff shall visit sites on a periodic basis to observe and monitor RPR and construction Contractor activities, and facilitate, as practicable, communications between all team members to resolve issues that may arise in as expeditious a manner as possible. ~~be on site at all times when the Contractor is on the job, as practicable. In an effort to minimize the CITY's costs with respect to on-site field representation, the CONSULTANT has anticipated that certain projects similar in nature and in adjacent geographical areas will be represented by one resident field representative as identified in Exhibit A.~~ CONSULTANT's level of effort is based upon the assumption that the contract documents will limit the Contractor's work schedule to one work crew based upon an eight hour shift Monday through Friday. If Contractor's work schedule requires CONSULTANT to visit the site outside of this assumed work schedule, CONSULTANT will be entitled to an equitable adjustment accordingly, based on

**the hourly rates set forth in the Schedule C-1.**

f. Replace Task 5.1 – Field Observation Services with the following:

CONSULTANT shall provide **three (3) RCM's as noted above. These RCM's, field staff to, in concert with the detailed full-time observation efforts from the Design Professional's -provided RPRs shall, as practicable when present at the specific Project site, observe the construction of the work, and perform the following tasks; monitor and observe the RPRs in carrying out their scope of services, including those tasks set forth and defined in Schedule A-1, Scope of Design Professionals Services, to the Agreement between Design Professionals and CITY. In performing these field observation services, CONSULTANT understands that the Design Professional's provided RPRs will retain day to day responsibility for the construction project.**

- (a) ~~Conduct on-site observations of the work in progress to monitor general progress and assist in determining if the provisions of the Contract Documents and permit conditions are being fulfilled and to reasonably protect the CITY against defects and deficiencies in the work of the Contractor. CONSULTANT shall report to the CITY in writing, whenever it is believed that work is unsatisfactory, faulty or defective and/or does not conform to the contract documents, does not meet the requirements of inspections, tests, or has been damaged prior to final payment.~~
- (b) ~~CONSULTANT shall conduct on-site observations of the work in progress to determine if the contract documents and permit requirements are being complied with and to reasonably protect the CITY against Contractor work defects and deficiencies. CONSULTANT shall advise the CITY, in writing, whenever work is determined to not conform to the contract documents. CONSULTANT's observer shall attend all scheduled meeting with the Contractor.~~
- (c) ~~Maintain a daily log of general observations and findings, as applicable, work performed. The daily notes shall will, as practicable, include records of when the Contractor is on the job site, weather conditions, change orders, or changed conditions, list of job site visitors, daily drilling and testing activities, observations in general, and specific observations in more detail as in the case of observing test procedures, as practicable. Record, in writing, the outcome of these inspections. CONSULTANT shall identify any utilities damaged and verify that the Contractor(s) has notified the respective utility owner.~~

- (d) **Monitor RPR verification** ~~Verify that tests, equipment and systems start-up are conducted in the presence of appropriate personnel, and that the Contractor maintains adequate records thereof; and observe, record, and report appropriate details relative to the test procedures and start-up, **as practicable**.~~
- (e) Provide a **general** photographic record of the construction, beginning with pre-construction documentation and completing with post-construction photographs. Photographs shall be digital snapshot type taken to define the progress of the project and shall be labeled as to date, location, view and signed by the CONSULTANT. **This photographic record shall be separate and distinct from that maintained by the Design Professionals.**
- (f) Review materials and workmanship of the projects **with the Design Professionals** and report to CITY any deviations from the Contract Documents that may come to the CONSULTANT's attention. Determine the acceptability of the work and materials and make recommendation to CITY to reject items not meeting the requirements of the contract documents.
- (g) **Monitor RPR verification efforts with regard to checking** ~~Contractors' material certifications and samples, verifying that delivered materials match approved shop drawings.~~
- (h) **Perform general** ~~Field observation~~ **of critical points in the construction process.**
- (i) **Monitor RPR** ~~direction and supervision of the sampling and testing of materials to be performed by independent testing laboratories under subcontract to the CITY. This task includes the receipt, review and processing of invoices from the independent testing laboratories for payment by the CITY.~~
- (j) CONSULTANT shall **work with the RPR to** ~~verify all pay requisition quantities in the field by measurement. CONSULTANT shall develop a Field Measurement Form and utilize such form as verification of pay requisition items.~~
- (k) **Monitor RPR verification** ~~of that record drawing mark-ups are properly maintained by the Contractor.~~

It is assumed that CITY will pay for all material testing services (i.e. densities, compaction testing, etc) directly.

Deliverables Provide **three (3) full time RCM's**, to work in concert with RPR's resident

~~project representation on projects, as deemed necessary.~~

- Prepare Construction Observation Forms and distribute to Program staff **after each periodic site visit**

Schedule Ongoing throughout Program

g. Replace **Task 5.2 – Project Closeout** with the following:

Upon receiving notice from the **Design Professionals** Contractor advising the CONSULTANT that the project is substantially complete, CONSULTANT, in conjunction with appropriate CITY and A/E consultant staff, shall schedule and conduct an overview of the project. The overview shall include CONSULTANT'S development review of the A/E consultant-generated "punch list" of items needing completion or correction prior to consideration of final acceptance. ~~The list shall be forwarded to the Contractor.~~ For the purposes of this provision, substantial completion shall be deemed to be the stage in construction of the project where the project can be utilized for the purposes for which it was intended, and where minor items not be fully completed, but all items that affect the operational integrity and function of the project are capable of continuous use.

Upon notification from **the Design Professionals** that all remaining "punch list" items have been resolved, the CONSULTANT, in conjunction with appropriate CITY and A/E consultant staff, shall perform a final review of the finished project. Based on successful completion of all outstanding work items by the Contractor, CONSULTANT shall assist CITY **and Design Professionals with** ~~in~~ closing out the construction contract. This shall include, but not limited to, providing recommendations concerning acceptance of the project and preparing / collecting necessary documentation, including but not limited to, lien waivers, Contractor's final affidavit, close-out change orders, and processing of the final payment application.

Deliverables Receive Contractor substantial completion notification **from Design Professionals**

Coordinate and attend field meetings to review substantial completion.

- **Prepare Verify and review** that punch lists are completed.
- **Verify that Design Professionals** certify project completion to appropriate agencies.

Schedule -Ongoing throughout Program.

Revise Task 6.5 – Office Space as follows:

CONSULTANT's current ~~shall enter into a six year lease at the Giller Building, 975 Arthur Godfrey Road, for approximately 2,000 square feet of office space to house proposed program specific staff,~~ **will terminate on September 30, 2006. Based on estimated staffing levels for Fiscal Years 2007 through 2012, CONSULTANT assumes that approximately 2,500 square feet of space will be required, as noted on the Fee Schedule C-1.** The proposed office lease rate includes janitorial services, utilities (water/sewer, electric), real estate taxes, security and internet access. Electrical costs included in the base office lease rate are based upon air climate control being provided Monday through Friday, 8 am to 6 pm and Saturday from 8 am to 1 pm. Should additional air climate control services be required after normal building hours, costs shall be borne by the CITY. Costs to renovate the space, purchase of furniture and the costs to maintain up to six telephone lines shall be borne by the CONSULTANT. ~~One parking space is provided with the office space.~~ CONSULTANT anticipates that the CITY shall provide unlimited City parking privileges for the program staff (up to 17 staff members) at no charge to the CONSULTANT.

## **PROGRAM TIMELINE**

CONSULTANT shall provide services per the original Agreement and as modified herein for the period commencing on October 1, 2006 and terminating on September 30, 2012.

## **PAYMENT AND COMPENSATION**

The method for calculating the fees for the aforementioned proposed engineering services is established in the attached as noted below:

- Schedule B-1 Manpower Summary
- Schedule C-1 Estimated Fee
- Schedule D-1 PM Field Staffing
- Schedule E-1 Summary of Unexpended RPR from Original Agreement – Credit
- Schedule F-1 Summary of Contract Extension Fee Calculation

The total fee proposed for this Scope of Work shall be a not-to-exceed basis in the amount of \$16,683,153.

**EXHIBIT B**  
**SCOPE OF SERVICES**  
**PROGRAM MANAGEMENT SERVICES TO MANAGE CONSTRUCTION PROJECTS**  
**WITHIN THE PUBLIC RIGHT OF WAY**

The City of Miami Beach (CITY) has developed various programs to improve the quality of life of its residents. On November 2, 1999, voters approved the issuance of approximately \$92 million in General Obligation (GO) Bonds for Neighborhood, Parks, Beach and Fire Safety Improvements, of which \$57 million is allocated for capital right-of-way infrastructure projects. In addition to this allocation, CITY Administration proposes that a portion of the recent Water and Wastewater Bond and Stormwater Bond issues also are allocated for capital right-of-way infrastructure projects. These estimated \$187 million of public right of way infrastructure improvement projects are to be implemented over the next six (6) years (Program). Program elements include citywide water, wastewater and stormwater improvements; as well a variety of streetscape enhancement projects. A listing of anticipated Projects to be performed under the scope of this Program Management Agreement is included as Exhibit A.

As the various right of way infrastructure Projects progress from planning to design, construction and operation, the requirement for oversight of design and construction activities becomes essential to Program success. This need becomes more prevalent when considering the magnitude of the number of Projects being undertaken, the likelihood that individual Project phases will overlap with other improvements, and the potential impacts to the day-to-day operations of the CITY.

The Program management team shall provide the necessary administration of planning, design and construction tasks as the Projects proceed concurrently over the course of the next six years. Program management shall further accomplish the CITY's goals by reviewing project implementation priorities and limiting the duplication of efforts through the grouping of Projects into specific packages. In addition, standards shall be established to ensure that all contract documents are uniform, linked, and integrated accordingly with other ongoing and/or future elements of the Program. All of these efforts shall be undertaken with the primary purpose of protecting the interests of the CITY.

To this end, it is Hazen and Sawyer's, P.C. (CONSULTANT) intent to establish an office located nearby the CITY's Public Works Department. This office shall house the baseline Program management staff including the Program Manager, Deputy Program Manager, Engineering / Planning Manager, Construction Manager and other key staff. In addition, the office shall serve as the base of operations for the construction observation staff. Files shall be kept for all Program correspondence, meetings and shop drawings. The files shall also include reproductions of original Contract Documents including addenda, change orders, field orders, field memos, additional drawings issued subsequent to the execution of the construction contracts, clarifications and interpretations of the contract documents, progress reports, and other Project related documents. It is intended that all files shall be turned over to CITY at the completion of the Program.

Program management services shall be provided for a variety of administrative duties including, general program management, planning phase program management, design phase program management, construction phase program management, construction observation and miscellaneous (upon request) support services. Each of these types of services shall be provided by the CONSULTANT working in concert with CITY, the CITY's design consultant (A/E), and construction contractor (Contractor) staffs. The following discussion details specific work efforts associated with the performance of each of these services:

## **TASK 1 – GENERAL PROGRAM MANAGEMENT SERVICES**

CONSULTANT shall coordinate the overall administration of the Program and act as the CITY's representative throughout the Program duration to the extent addressed by this Agreement. This effort shall include the following tasks:

**Task 1.1 - Development of a Program Work Plan:** CONSULTANT shall prepare a Program Work Plan (PWP) detailing procedures and policies for the overall Program. This PWP manual shall dictate the respective responsibilities and levels of authority for all Program team members. Organizational structure flowcharts and team member duties shall be included to establish a working understanding regarding reporting and communication relationships on the Program. The PWP shall also include a listing of design and construction phase deliverables from the various A/E's and Contractors,



along with a proposed Program manager duties during the planning, design and construction phases of the Program. CONSULTANT shall meet with CITY representatives to review and receive comments on the PWP prior to finalization. Once accepted by the CITY, the CONSULTANT shall update the PWP on a quarterly basis to ensure that all lines of communications and responsibilities are kept up to date. One copy of the PWP will be given to designated CITY staff as well as each A/E and Contractor.

- Deliverables -        Develop work plan for all activities.
- Draft (10 copies) and final (50 copies) of the Program Work Plan.
  - Meeting to review and receive comments from CITY staff.
  - Meeting agenda and minutes.
- Schedule -        Draft to be completed within forty-five (45) calendar days from the receipt of the Notice to Proceed and Final to be completed fifteen (15) calendar days after receipt of all comments.

**Task 1.2 - Master Program Schedule:** CONSULTANT shall prepare a “rolled-up” Master Program Schedule based on input received from the CITY, A/E firms and/or Contractors. The Master Program Schedule shall be distributed to CITY and other appropriate parties for review. “Primavera Project Planner, version 3.0” software shall be used as the standard scheduling software and shall be specified for use by the selected A/E’s and Contractors. CONSULTANT shall review and update the monthly Master Program Schedule on a monthly basis. In addition, the Master Program Schedule shall be incorporated into the Monthly Management Status Report as discussed in Task 1.4.

- Deliverables -        Master Program Schedule consisting of all Infrastructure Improvement projects.
- Attend meeting to receive preliminary schedules from CITY and / or A/E consultants.
  - Meeting agenda and minutes.
  - Draft (10 copies) and final (50 copies) of the Master Program Schedule.

- Schedule - Draft to be completed within thirty (30) calendar days from the completion of Task 2 and Final to be completed fifteen (15) calendar days after receipt of all comments and updated on a monthly basis thereafter for the duration of the Program.

**Task 1.3 – Master Program Cost Model:** CONSULTANT shall prepare and maintain a Master Program Cost Model to track funding status, engineering and Program management fees, construction costs, construction contingencies and change order status, throughout the duration of the Program. The model shall be set up using “MS - Excel” software and be updated on a monthly basis. CONSULTANT shall utilize the model to track and forecast expenses related to the Bond issues. It is assumed that project-funding source data, including bond funds, interest, grants and other alternative funding sources, will be provided by the CITY Finance Department. CONSULTANT shall review and update the cost model on a monthly basis with applicable representatives from the CITY. The Master Program Cost Model shall be incorporated into the Monthly Management Status Report as discussed in Task 1.4.

- Deliverables - Master Program Cost Model consisting of all Infrastructure Improvement projects, internal costs, etc.
- Monthly meeting with City Finance Department.
  - Meeting agenda and minutes.
  - Draft (10 copies) and final (50 copies) of the Master Program Cost Model.

- Schedule - Draft to be completed within thirty (30) calendar days from the completion of Task 2 and Final to be completed fifteen (15) calendar days after receipt of all comments and updated on a monthly basis thereafter for the duration of Program.

**Task 1.4 – Program Management Status Reports:** CONSULTANT shall generate and distribute a monthly Program Management Status Report (PMSR) that includes updated design and construction schedules and cost model status updates. Monthly progress schedules and reports, as provided by the various A/E and/or Contractors (developed in accordance with the PWP) shall be used for a portion of these reports. Schedule

reporting shall reflect actual progress against scheduled progress while cost reporting shall reflect current cost and projected cost information. A Program funds draw schedule shall also be included, as developed with input from the CITY Finance Director. The PMSR shall be used to review Program status with the City Commission and G.O. Bond Oversight Committee on a monthly basis. CONSULTANT shall attend Commission and Oversight Committee Meetings accordingly. CONSULTANT's anticipated level of effort includes graphical presentation support for the preparation of graphical materials to aid in G.O. Bond Oversight Committee and City Commission meetings.

- Deliverables - Program Management Status Reports describing and documenting the status of all Infrastructure Improvement projects.
- Fifty (50) copies of the Program Management Status Reports.
  - Attend and participate in monthly G.O. Bond Oversight Committee meetings.
  - Attend and participate in bi-weekly Commission Meetings.
- Schedule - Copies to be submitted on the final Monday of the month in order to provide seven (7) calendar days of review time to the G. O. Bond Oversight Committee.

**Task 1.5 – Document Control System:** CONSULTANT shall establish and maintain an integrated document control system to assure complete control of all engineering and construction records, correspondence, reports, design documents, meeting notes, video tapes, and all other information received or produced by the CONSULTANT. To ensure compatibility with CITY information management systems, "Primavera Expedition version 7.0" software shall be used for document control. In addition, all word processing shall be performed on "MS-Word version 2000" software and spreadsheets shall be developed using "MS-Excel version 2000" software.

## **TASK 2 – PLANNING PHASE PROGRAM MANAGEMENT SERVICES**

**Task 2.1 – Program Planning Services:** Program planning analysis is required to ensure that the Program is executed with a minimum amount of impact to the community and at minimal cost to the CITY. Program planning establishes the road map for successful completion of the work. Under this Task, the CONSULTANT shall work with CITY staff to:

- Prepare definitive scope of services for the various Projects, including mapping of the general Project areas.
- Develop a master schedule illustrating current known Project prioritization parameters.
- Prepare overlapping schedules of known projects being proposed by outside agencies including the Florida Department of Transportation (FDOT), Miami-Dade Water and Sewer Department (MDWASD), Miami-Dade Public Works Department (MDPWD), the Municipal Mobility Plan, Florida Power and Light (FPL), BellSouth, Charter Communications, and others as applicable.
- Prepare additional overlapping schedules of known civic activities such as Convention Center functions, Art Festivals, tourist sensitive areas, and similar activities that could be affected by the Program.

Deliverables - Utilizing the Master Program Schedule, prepare and update an Overlapping Schedule that identifies known projects and / or activities by other agencies to coordinate overlapping activities.

- Attend monthly Utility Coordination Meetings sponsored by Sunshine One Call of Florida.
- Preparation of letters and support materials to agencies and / or entities.
- Prepare meeting agendas and minutes with all agencies and / or entities.
- Fifty (50) copies of the Overlapping Schedule.

- Schedule
- Upon completion of planning effort, copies of schedule shall be submitted on the final Monday of the month in order to provide seven (7) calendar days of review time to the G. O. Bond Oversight Committee.
  - Planning services shall be ongoing throughout Program duration.

**Task 2.2 – Contractor Bonding Capacity Survey:** The total construction cost of a bid package is an important consideration which must be evaluated, since it can limit the number of Contractors who are available to bid the work because of bonding limitations. CONSULTANT shall perform a bonding survey of the Contractors who typically bid Miami-Dade County work to evaluate their present bonding capacity. CONSULTANT shall also evaluate the impact of other ongoing neighborhood infrastructure improvement programs in the tri-County area in an effort to maximize Contractor participation. The resulting evaluation shall be put into report format for review with applicable CITY staff. The bonding capacity analysis shall be updated on a semi-annual basis.

- Deliverable
- Preparation of letters and support materials to Contractors identified to participate in survey.
  - Compilation of data provided by Contractors and information gathered via telephone inquiries.
  - Ten (10) draft copies and fifty (50) copies of the Contractor Bonding Capacity Report.
- Schedule
- Draft copies to be submitted for review within seventy-five (75) calendar days after receiving the Notice to Proceed and final within fifteen (15) calendar days after receipt of comments.
  - Survey to be updated semi-annually for the duration of the Program

**Task 2.3 – Project Prioritization:** Utilizing the overlapping schedule analysis and bonding survey data prepared under Tasks 2.1 and 2.2, CONSULTANT shall establish a Project prioritization schedule. CONSULTANT shall evaluate and recommend to the

CITY the best procurement strategies in an effort to promote competition among bidders, as well as minimize disturbance to the public.

- Deliverable - Prioritize CITY Projects and develop schedule based on priority.
- Recommend best procurement pathways available to the CITY.
- Ten (10) draft copies and fifty (50) copies of the Project Prioritization Schedule Technical Memorandum.
- Schedule - Draft copies to be submitted for review within thirty (30) calendar days after receiving the Notice to Proceed and final within fifteen (15) calendar days after receipt of comments.

**Task 2.4 – Program Delivery Analysis Report:** The above referenced documents shall be used to group Projects into specific construction packages, identifying similar work areas, and combining Projects to minimize construction duration in affected areas. Proposed construction packaging shall be reviewed with CITY staff and a Program Delivery Analysis Report (PDAR) shall be issued with the resulting recommendations.

- Deliverable - Meeting agendas and minutes.
- CONSULTANT shall review the PDAR with the City Commission and G.O. Bond Oversight Committee as required.
- Ten (10) draft copies and fifty (50) copies of the Program Delivery Analysis Report.
- Schedule - Draft copies to be submitted for review within seventy-five (75) calendar days after receiving the Notice to Proceed and final within fifteen (15) calendar days after receipt of comments.

### **TASK 3 – DESIGN PHASE PROGRAM MANAGEMENT SERVICES**

**Task 3.1 – Assist CITY with Development of Architect / Engineer (A/E) Consultant Scope of Services:** The Program is to be designed by various outside A/E consultants. The CITY is currently in the process of issuing Requests for Qualifications for selection of these firms. Once the A/E consultants are selected by the CITY, the CONSULTANT

shall serve as the primary point of contact for the execution of their work activities. Hence, the CONSULTANT shall attend design Project analysis meetings in conjunction with the A/E consultant and CITY staff for the purpose of defining Project objectives, budgets, schedule constraints and scope of services. The CONSULTANT shall provide the CITY with technical review as it pertains to the contract agreements and scope of services with the selected A/E firms. CONSULTANT shall ensure that the scope of services for each A/E consultant contains the appropriate scope items to provide a quality product that meets industry standards, including the preparation of cost estimates in compliance with the Association of American Cost Engineers. It is assumed that the CITY shall make all A/E consultant selections and negotiate fees accordingly.

CONSULTANT shall transmit proposed A/E contracts to the CITY's Risk Management and Procurement Departments and the City Attorney's Office to verify that appropriate insurance requirements for each A/E consultant selected by the CITY are met. The CONSULTANT shall assist CITY staff with the preparation of requisite documentation (i.e., commission memoranda and resolutions) to process selected A/E firm contracts through the CITY Commission approval process. CITY shall provide CONSULTANT with sample formats of approved commission memoranda and resolutions for CONSULTANT's use.

- Deliverable     -     Meeting agendas and minutes.
- Review and comment of Request for Qualifications.
- Review and comment of proposed A/E scope of services / and contract agreements.
- Preparation of requisite documentation to process selected A/E firm.
- Schedule        -     Ongoing throughout Program.

**Task 3.2 – Establish Design Standards:** To ensure uniformity, CONSULTANT shall develop standard specifications, front-end documents, computer aided design (CAD) layering systems and miscellaneous details to be used by all design consultants in the preparation of their respective contract document. In addition CITY shall provide CONSULTANT with any applicable standards they want included in the Program standards. To facilitate the transfer of electronic files among Program team members,

all specifications shall be prepared in “MS-Word version 2000” format and all Cad drawing utilize AutoCAD Version 14 software. To the extent possible, CONSULTANT shall utilize existing CITY standards. Note that it is the intent of this Task to prepare and develop standard specifications and details for use in Program projects only. It is not anticipated that CONSULTANT is developing Public Works Department Standard Specifications and Details.

In addition, CONSULTANT shall provide review and comment on current CITY construction contract front-end documents as noted under Task 3.3. CONSULTANT shall develop a bound Program Design Standards Manual (PDSM) for distribution and use by all program participants.

- Deliverables    -      Meeting agendas and minutes, as applicable.
- Review and comment on existing CITY construction contract front end contracts, design standards, details and guidelines.
- Ten (10) draft copies and fifty (50) copies of the Program Design Standards Manual.
- Schedule        -      Draft copies to be submitted for review within ninety (90) calendar days after receiving the Notice to Proceed and final within fifteen (15) calendar days after receipt of comments.

**Task 3.3 – Legal Assistance:** CONSULTANT shall retain the services of an attorney to provide technical and legal assistance to CONSULTANT throughout the execution of the Program, as required.

**Task 3.3.1 - Front End Document Review**

CITY shall provide CONSULTANT with a typical front-end contract document utilized for the construction of municipal projects within the City of Miami Beach. CONSULTANT shall review the front end documents with respect to non-compensable/excusable delay claims, compensable/excusable delay claims, liquidated damages, calculation of Contractor indirect costs, Request for Payment procedures, bonus incentive clauses, limited and Full Notices to Proceed , change order approval process and such other items as requested by the CITY. The intent of this review would be to upgrade the



contract documents in an effort to minimize areas that expose the CITY to additional risk.

CONSULTANT shall obtain copies of typical front-end documents from the Miami-Dade County Department of Public Works, Miami-Dade County School Board, Broward County Department of Public Works, Broward County School Board and the Palm Beach County Department of Capital Projects. CONSULTANT shall meet with these entities to discuss and review their experiences with the front-end contract documents with respect to construction delay claims and change order processes. CONSULTANT shall prepare memoranda discussing alternative means to minimize CITY risk.

- Deliverables
  - Prepare meeting agendas and minutes.
  - Review CITY's front end contract documents for construction of municipal projects and provide CITY with recommendations to their contract document.
  - Coordinate and attend meetings with the appropriate entities at Miami-Dade, Broward and Palm Beach Counties to review front-end documents.
  - Prepare recommendation memoranda.
- Schedule
  - Submit draft memoranda and recommended contract document to CITY Administration within one hundred twenty (120) calendar days of receipt of the Notice to Proceed and final memoranda and contract document within fifteen (15) calendar days of receipt of comments.

**Task 3.3.2 – Front End Document Workshop Meeting**

CONSULTANT shall coordinate and attend a workshop meeting with the CITY's Administrative, Public Works, Legal and Procurement department staff to discuss and review alternative means to reduce the CITY's risk with respect to contractor delay claims, change order processing, schedule review, etc. The basis for this workshop meeting shall be the information gathered during the meetings held in Task 3.3.1.

- Deliverable
  - Coordinate and attend workshop meeting.

Schedule - Within seventy-five (75) calendar days of receipt of the Notice to Proceed.

**Task 3.3.3 – Front End Document Revisions**

Based upon the results of the Front End Document Workshop Meeting, CONSULTANT shall propose language for incorporation into the CITY's standard front-end contract documents. CONSULTANT shall prepare recommended language and submit to the appropriate CITY staff for review and comment.

Deliverable - Prepare suggested language for incorporation into the CITY's front-end contract document.

Schedule - Within fifteen (15) calendar after the Front End Document Workshop Meeting.

**Task 3.4 – Manage A/E Consultant Progress:** CONSULTANT shall serve as the focal point of contact with all of the Program A/E consultants and shall track their progress toward the successful completion of the work. In conjunction with CITY staff, CONSULTANT shall meet monthly with each A/E consultant to review the progress and status of its work activities. These meetings shall also serve as a primary method for exchanging information, resolving design decisions, and reviewing design progress. It is assumed that each A/E consultant shall be required, as a part of its contract with the CITY, to develop and maintain a progress schedule of its activities in Primavera Project Planner, version 3.0 format or SureTrak. Should the CONSULTANT determine that an A/E consultant has fallen behind schedule, the A/E consultant shall be required to provide a recovery schedule that will accelerate work and get them back on schedule. The CONSULTANT shall prepare and distribute meeting minutes to all attendees and other appropriate parties.

Deliverables - Meeting agendas and minutes.  
- Review and comment on A/E design professional schedules, request and review recovery schedules, if required.

- Prepare correspondence between the CONSULTANT, A/E design professional and CITY, as required.
- Review and process monthly invoices from A/E design professionals.

Schedule - Ongoing throughout Program.

**Task 3.5 – Design Reviews:** The CITY prides itself on maintaining open lines of communication with its citizens. Hence, it is anticipated that up to three (3) public meetings will be held for each Project during the design phase to ensure that community input is received and that citizens are kept informed on the content and status of the various Projects. CONSULTANT shall attend these meetings with the respective A/E consultant and appropriate CITY representatives, as required.

CONSULTANT shall attend meetings between A/E consultants and internal CITY departments to prepare for these meetings. It is assumed that A/E consultants will develop all graphics, plans and renderings, acceptable to the CITY and CONSULTANT, for review at the public meetings. CONSULTANT can prepare graphics and other materials for such meetings as noted under Task 7. It is assumed that CITY personnel will schedule, coordinate and conduct these meetings and prepare and issue minutes accordingly. In addition, it is anticipated that A/E Consultants will attend Design Review Board, Historic Preservation, Planning Board, G.O. Bond Oversight and Commission Meetings, as required.

To verify that all design review meeting comments have been incorporated and design standards have been followed, CONSULTANT shall perform reviews of all design Project documents at the preliminary (30 percent completion), intermediate (60 percent completion) and near final (90 percent completion) design stages. The purpose of these reviews shall be to verify that the documents are consistent with the design intent. The CONSULTANT shall also review A/E consultant(s) prepared cost estimates for the project at both the 60 and 90 percent submittal stages. CONSULTANT shall forward a copy of each review set of contract documents to relevant CITY Departments for their review and comment. CONSULTANT shall provide comments on the specifications, plans and other supporting materials, as applicable. A meeting shall be held with respective A/E consultant(s) and CITY representatives to discuss these review

comments, as required. The preliminary design review shall require that each A/E consultant perform corridor routing studies and field verifications of existing underground infrastructure conditions, as deemed necessary by CONSULTANT.

CONSULTANT shall ensure that A/E consultants obtain and address all relevant CITY Department, governmental agency and community comments regarding design issues related to the projects.

- Deliverables - Meeting agendas and minutes.
- Review A/E furnished contract documents at the preliminary, intermediate and near final design completion stages.
  - Provide comments on A/E furnished contract documents.
  - Coordinate and participate in meetings with the A/E design professionals to review comments.

- Schedule - Ongoing throughout Program.

**Task 3.6 – Permitting Assistance:** It is assumed that the respective A/E consultants will be responsible for preparing and submitting permit applications for their Projects, attending all resulting meetings, and for responding to all requests for information (RFI's) from jurisdictional agencies. CONSULTANT does not anticipate attendance at these meetings. However, the CONSULTANT shall be the responsible party for formally transmitting and receiving permits to and from the respective Agencies. CONSULTANT shall track and monitor progress on the preparation and review of permits and subsequent requests for information. In addition, the CONSULTANT shall develop and maintain a database that identifies all permits that may be needed for all Projects. This database shall identify the specific permit(s) required for each Project, the timing for when the permit is needed, the individual responsible for preparing the permit, and the current status of the permit and any related RFI's and responses.

- Deliverables - Receive, log in and transmit permit applications to respective agencies.
- Prepare a permit tracking database.
  - Receive, log in and transmit agency Requests for Information to appropriate parties.

- Ensure that agency Requests for Information are responded to in a timely fashion.

Schedule - Ongoing throughout Program.

**Task 3.7 – Constructability Reviews:** CONSULTANT shall perform constructability reviews of the design documents relative to value, construction sequencing and bid format. The reviews shall be based upon the 60 and 90 percent design submittals received from the A/E consultant(s) and shall be conducted concurrently with the 60 and 90 percent design reviews. Meetings shall be held with respective A/E consultants and CITY representatives to discuss review comments, as required. CONSULTANT shall verify construction cost estimates provided by the A/E consultants for their respective Projects. Verification of construction cost estimates shall be performed at the 30, 60, 90 and 100 percent design review points. The accuracy of the cost estimate associated with the 30 and 60 percent design reviews shall be +30% to –15% Budget Level Estimates as defined by the American Association of Cost Engineers. The accuracy of the cost estimates associated with the 90 and 100 percent design reviews shall be a +15% to –5% Definitive Level Estimate as defined by the American Association of Cost Engineers.

In addition, CONSULTANT shall assist the A/E consultants in defining schedule milestones and construction sequencing restrictions.

- Deliverables - Meeting agendas and minutes.
- Perform constructability reviews of A/E furnished contract documents.
  - Provide comments on A/E furnished contract documents.
  - Coordinate and participate in meetings with the A/E consultants to review comments.
  - Cost estimating services.

Schedule - Ongoing throughout Program.

**Task 3.8 – Bid Services:** CONSULTANT shall work with the CITY's Procurement Department and other applicable staff as required to provide general bid services including the scheduling of bids, attendance at pre-bid conferences, solicitation of bids, coordination of responses to bidder's questions from A/E consultants, attendance at bid openings and coordination of award recommendations from A/E consultants. CONSULTANT shall transmit contract documents prepared by the A/E consultants to the CITY's Risk Management and Procurement Departments for verification of appropriate insurance and bonding capacity requirements for each Project prior to bid. CONSULTANT shall assist the CITY's Procurement Department with verification of bidder's references. CONSULTANT shall also prepare requisite documentation to process contract award through the CITY Commission approval process.

CONSULTANT's anticipated level of effort does not include any allowance of CONSULTANT's time to assist the CITY in the event of a bid protest. To the proportionate extent CONSULTANT's services are required in the event of a bid protest due to a direct action or lack thereof by CONSULTANT, CONSULTANT shall participate in such rebidding of the particular Project at no cost to CITY.

Deliverables - Attend and participate in Pre-bid conferences.

- Review and distribute questions from prospective bidders to applicable A/E consultants.
- Review contract document addenda provided by A/E consultants, prior to issuance.
- Verify bids are responsible and responsive.
- Prepare correspondence recommending award to CITY Administration.

Schedule - Ongoing throughout Program.

**Task 3.9 – Program Web Site Development / Maintenance:** CONSULTANT shall set up an interactive website for the Program. Each Project in the Program shall be identified with its own Project description, Project schedule, construction costs, areas of impact, traffic maintenance plans, traffic advisory notices. The website would be developed with three unique levels of access. Level 1 would be for public access with no password requirements. Contents would include frequently asked questions, upcoming

events, public meetings and notices, photos, and project status summary descriptions. Level 2 would be available to the A/E consultants, Contractors, CITY staff and other selected parties. Contents would include access to electronic files for project specific plans and specifications. Level 3 would include access by Program management personnel and designated CITY staff members only. This level would include document sharing capabilities, payment logs, plan review comments, permitting files and project related correspondence. Level Nos. 2 and 3 would be password protected.

#### **TASK 4 – CONSTRUCTION PHASE PROGRAM MANAGEMENT SERVICES**

The CONSULTANT shall perform the following tasks associated with office administration activities related to the construction of the various Projects. These tasks shall be performed during the duration of all Projects under construction . Construction phase Program management services are provided for the intent of becoming familiar with the progress of the construction work and to verify that the work is proceeding in general accordance with the requirements of the contract documents. Note that construction observation services are presented under Task 5.

**Task 4.1 – Construction Management Manual:** Due to the extensive amount of detailed procedures required to properly manage construction Projects, CONSULTANT shall develop a Construction Management Manual (CMM) for the construction phase of the Program. This manual will augment the general Program guidelines established in the PWP developed under Task 1.1 and shall provide uniform procedures and guidelines for managing the interface between CITY staff, Contractors, A/E consultants, field observation staff and the CONSULTANT. It is assumed that the CITY will utilize the services of the respective A/E consultants for office engineering services (i.e. preparation of contract document clarification, submittal review, responses to questions and clarifications, change order request reviews, progress meeting attendance and specialty site visits, and other required supporting documentation, on an as needed basis) during the construction period.

Deliverables - Ten (10) draft copies and fifty (50) copies of the Construction Management Manual.

- Schedule - Draft copies to be submitted for review within one hundred and eighty (180) calendar days after receiving the Notice to Proceed and final within fifteen (15) calendar days after receipt of comments.

**Task 4.2 – Pre-Construction Conferences:** CONSULTANT shall coordinate and attend pre-construction conferences with each Contractor, A/E consultant and applicable CITY personnel. The Contractors shall furnish preliminary schedules and traffic maintenance plans at this meeting. CONSULTANT shall prepare and distribute meeting minutes to all attendees and other appropriate parties. CONSULTANT shall issue a Limited Notice to Proceed at the Pre-Construction Conference. A final Notice to Proceed shall be issued upon receipt of a final schedule and procurement of all applicable construction permits from the Contractor.

- Deliverables - Meeting agendas and minutes.  
- Attend and participate in pre-construction conferences.

- Schedule - Ongoing throughout Program.

**Task 4.3 – Manage Construction Progress:** CONSULTANT shall meet weekly with the Contractor, A/E consultant and applicable CITY representatives on each Project. The purpose of these meetings shall be to review the status of construction progress, shop drawing submittals and contract document clarifications and interpretations. In addition, the Contractor shall furnish a two-week look ahead work schedule to allow for proper coordination of necessary work efforts. The CONSULTANT shall conduct periodic field visits to the Project site for the purpose of confirming the Contractor's progress. Resident Project representation services are discussed under Task 5.0. These meetings shall also serve as a forum for discussion of construction issues, potential changes / conflicts and any other applicable matters. The CONSULTANT shall prepare and distribute meeting minutes to all attendees and other appropriate parties.

- Deliverables - Meeting agendas and minutes.  
- Attend and participate in weekly progress meetings with Contractors.  
- Review Contractor two-week look ahead schedules.



Schedule - Ongoing throughout Program.

**Task 4.4 – Monthly Construction Progress Meetings:** In addition to weekly meetings with the construction Contractors, CONSULTANT shall attend monthly construction progress meetings, as necessary, with the CITY staff. These meetings shall be held for the purpose of reviewing Project schedule, cost and issues of concern. In preparation for these meetings, CONSULTANT shall prepare and distribute to applicable CITY staff the Program Management Status Report (PMSR). CONSULTANT shall meet with appropriate CITY staff to review the PMSR prior to meeting with the G.O. Bond Oversight Committee and CITY Commission, as discussed in Task 1.4 above.

Deliverables - Meeting agendas and minutes.  
- Attend and participate in monthly Construction Progress Meetings.

Schedule - Ongoing throughout Program.

**Task 4.5 – Utility and Permitting Coordination Services:** CONSULTANT shall provide ongoing coordination between the A/E consultants, Contractors, local municipal authorities, governmental agencies, utility companies, and other known jurisdictional agencies, to verify that all required permits have been obtained. The Contractor will be responsible for location / verification of existing utilities, as required. Included in this work effort will be verification that the Contractor's traffic control plan has received required jurisdictional agency approvals. CONSULTANT shall work with CITY to establish procedures for monitoring enforcement of the Contractor's traffic control program throughout the duration of the Project.

Deliverables - Verify that all required permits have been obtained.

Schedule - Ongoing throughout Program.

**Task 4.6 – Review of Contractor's Schedules:** CONSULTANT shall review the construction schedules proposed by the Contractors for compatibility with the intent of

the contract documents. CONSULTANT shall work with the Contractors to develop acceptable schedules. CONSULTANT shall review schedules with applicable CITY staff.

Each Contractor will be required to submit a monthly schedule update, which shall be reviewed by CONSULTANT. Progress payments shall not be approved if the monthly schedule is not submitted. CONSULTANT shall require the Contractor to provide a list of materials and equipment needed over the upcoming 6 month period and proposed delivery dates for such items. Other schedule impact items may include identification of pending labor or material shortages or labor relation problems and monitoring and analyzing actual versus predicted progress information. CONSULTANT shall advise the Contractor of apparent schedule impacts from other Projects including interface requirements and work to be performed by other entities in the area. Should the CONSULTANT determine that an A/E consultant has fallen behind schedule, the Contractor shall be required to provide a recovery schedule that will accelerate work and get them back on schedule.

- Deliverables - Receive, log in and review Contractor's baseline construction schedules.
- Provide Contractors with schedule comments.
- Update Master Program Schedule based upon Contractor's approved schedule (baseline and monthly update).
- Schedule - Ongoing throughout Program.

**Task 4.7 – Requests for Information / Clarification (RFIs):** CONSULTANT shall receive, log and process all RFI's. Whenever an RFI involves the interpretation of design issues or design intent, CONSULTANT shall forward the RFI to the responsible A/E consultant and track a timely response back to the Contractor. CONSULTANT shall prepare and distribute RFI status reports at the weekly meetings with the Contractor.

- Deliverables - Receive, log in and transmit RFI's to appropriate parties.
- Respond to those RFI's that do not involve design interpretations.
- Maintain and distribute RFI Status Report, on a weekly basis.
- Schedule - Ongoing throughout Program.

**Task 4.8 – Requests for Changes to Construction Cost and/or Schedule:**

CONSULTANT shall receive, log and evaluate all requests for Project cost and/or schedule changes from the Contractor. Changes may be the result of unforeseen conditions or interferences identified by the Contractor during the routine progress of work, inadvertent omissions (betterment) issues in the contract documents, or additional improvements requested by the CITY or A/E consultant after the Project bid date. Regardless of the source, CONSULTANT shall evaluate the merit of the claim as well as the impact of the potential change in terms of Project cost and the schedule, as acceptable to the CITY. Such evaluation of the claim shall constitute a representation by CONSULTANT to CITY, based on observations and evaluations, that:

- (a) The work has progressed to the point indicated;
- (b) The work is in substantial accordance with the Contract Documents; and
- (c) The Contractor is entitled to payment in the recommended amount.

CONSULTANT shall coordinate negotiations with the Contractor and corresponding A/E consultant and CITY staff, as applicable. CONSULTANT shall review A/E consultant's recommendations with CITY staff. The A/E consultant shall be responsible for preparation of any documentation relative to a change order. Additional claims assistance services are discussed under Task 4.9.

- Deliverables
- Perform merit evaluation of claims / change requests.
  - Receive, log in and transmit claim / change requests to appropriate parties for review and action, as applicable.
  - Perform independent review of request for cost increase and/or time extension.
  - Coordinate and participate meetings, as required, with A/E consultants, CITY and Contractor to resolve and/or negotiate the equitable resolution of request.
  - Prepare and distribute project correspondence.
- Schedule
- Ongoing throughout Program.

**Task 4.9 – Construction Claims Assistance**

CONSULTANT shall provide assistance in reviewing the legal aspects of Construction Contractor claims as to validity and legal interpretation, on an as needed basis. CONSULTANT shall prepare a legal interpretation for each construction claim (if deemed necessary by CONSULTANT) and identify whether the Contractor's claim is valid or invalid, with respect to legal standing. CONSULTANT's level of effort is based upon the review of three (3) construction claims per fiscal year.

Deliverable - Legal interpretation of construction claims.

Schedule - Ongoing throughout Program.

**Task 4.10 – Processing of Shop Drawings:** CONSULTANT shall receive, log and distribute shop drawings to the appropriate A/E consultant and track a timely response back to the Contractor. CONSULTANT shall prepare and distribute shop drawing status reports at the weekly meetings with the Contractor.

Deliverables - Receive, log and distribute shop drawings to the appropriate A/E consultants.  
- Track submittal review time and distribute Shop Drawing Status Reports at -weekly meetings.

Schedule - Ongoing throughout Program.

**Task 4.11 – Progress Payment Requests:** CONSULTANT shall receive and review monthly invoices submitted by the Contractors to ascertain accuracy and prepare payment requests in accordance with CITY procedures. Based upon the Project records, as well as CONSULTANT's observations at the site and evaluations of the data reflected in Contractor's application for payment, CONSULTANT shall render a recommendation to CITY concerning the amount owed to the Contractors and shall forward the Contractor's application for such amount to CITY. Such approval of the application for payment shall constitute a representation by CONSULTANT to CITY, based on observations and evaluations, that:

- (a) The work has progressed to the point indicated;

- (b) The work is in substantial accordance with the Contract Documents; and
- (c) The Contractor is entitled to payment in the recommended amount

CONSULTANT shall assist CITY staff with tracking and expediting of progress payments through the CITY Accounting Department.

- Deliverables
  - Receive and review Contractor monthly Requests for Payment.
  - Verify that all required supporting documentation, such as record drawing maintenance, monthly progress schedule update, release of liens and certifications are submitted with Contractor's Request for Payment.
- Schedule
  - Ongoing throughout Program.

#### **TASK 5 – FIELD OBSERVATION PROGRAM MANAGEMENT SERVICES**

CONSULTANT shall provide full-time construction observers to provide adequate quantity and quality of observation personnel to reasonably verify that critical elements of the construction Projects are being complied with and that the general intent of the contract documents is being met. The purpose of CONSULTANT'S Construction Observation services is to provide for the CITY a greater degree of confidence that the completed work will conform in general to the construction contract documents and that the integrity of the design concept of the various Projects as indicated in the contract documents has been implemented and preserved by the construction Contractors. On the other hand, CONSULTANT shall not supervise, direct or have control over any construction Contractor's work nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the construction Contractors, for safety precautions and programs incident to the work of any construction Contractor or for any failure of a construction Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor's furnishing and performing the work. Accordingly, CONSULTANT neither guarantees the performance of any contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance

with the contract documents. CONSULTANT's level of effort is based upon 73,112 man-hours of field representation. Should this level of effort be exceeded or decreased, same shall be reflected in a written amendment to the Agreement, as provided in Article 7 therein. CONSULTANT's field staff shall be on-site at all times when the Contractor is on the job, as practicable. In an effort to minimize the CITY's costs with respect to on-site field representation, the CONSULTANT has anticipated that certain Projects similar in nature and in adjacent geographical areas will be represented by one resident field representative as identified in Exhibit A . CONSULTANT's level of effort is based upon the assumption that the contract documents will limit the Contractor's work schedule to one work crew based upon an eight hour shift Monday through Friday.

**Task 5.1 – Field Observation Services:** CONSULTANT shall provide field staff to observe the construction of the work and;

- (a) Conduct on-site observations of the work in progress to assist in determining if the provisions of the contract documents and permit conditions are being fulfilled and to reasonably protect the CITY against defects and deficiencies in the work of the Contractor. CONSULTANT shall timely report, to the CITY in writing, whenever it is believed that work is unsatisfactory, faulty or defective and/or does not conform to the contract documents, does not meet the requirements of inspections, tests, or has been damaged prior to final payment. CONSULTANT shall timely report, to the Contractor and CITY in writing, whenever it is believed that a hazardous condition exists.
- (b) CONSULTANT shall conduct on-site observations of the work in progress to determine if the contract documents and permit requirements are being complied with and to protect the CITY against Contractor work defects and deficiencies. CONSULTANT shall timely advise the CITY, in writing, whenever work is determined to not conform to the contract documents, permit requirements are not being complied with, and/or whenever an observed Contractor's work is determined to be defective/deficient. CONSULTANT's observer shall attend all scheduled meeting with the Contractor.

- (c) Maintain a daily log of work performed. The daily notes shall include records of when the Contractor is on the job-site, weather conditions, change orders, or changed conditions, list of job site visitors, daily drilling and testing activities, observations in general, and specific observations in more detail as in the case of observing test procedures. Record, in writing, the outcome of these inspections. CONSULTANT shall identify any utilities damaged and verify that the Contractors has notified the respective utility owner.
- (d) Verify that tests, equipment and systems start-up are conducted in the presence of appropriate personnel, and that the Contractor maintains adequate records thereof; and observe, record, and report appropriate details relative to the test procedures and start-up.
- (e) Provide a photographic record of the construction, beginning with pre-construction documentation and completing with post-construction photographs. Photographs shall be digital snapshot type taken to define the progress of the Project and shall be labeled as to date, location, view and signed by the CONSULTANT.
- (f) Review materials and workmanship of the Projects and timely report to CITY in writing any deviations from the contract documents that may come to the CONSULTANT's attention. Determine the acceptability of the work and materials and make recommendation to CITY to reject items not meeting the requirements of the contract documents.
- (g) Check Contractors' material certifications and samples, verifying that delivered materials match approved shop drawings.
- (h) Field observe critical points in the construction process.
- (i) Direct and supervise the sampling and testing of materials to be performed by independent testing laboratories under subcontract to the CITY. This task includes the receipt, review and processing of invoices from the independent testing laboratories for payment by the CITY.

(j) CONSULTANT shall verify all pay requisition quantities in the field by measurement. CONSULTANT shall develop a Field Measurement Form and utilize such form as verification of pay requisition items.

(k) Monitor that record drawing mark-ups are properly maintained by the Contractor.

(l) It is assumed that CITY will pay for all material testing services (i.e. densities, compaction testing, etc) directly.

Deliverables - Provide full time resident Project representation on Projects, as deemed necessary.  
- Prepare Daily Construction Observation Forms and distribute to Program staff.

Schedule - Ongoing throughout Program.

**Task 5.2 – Project Closeout:** Upon receiving notice from the Contractor(s) advising the CONSULTANT that the Project is substantially complete, CONSULTANT, in conjunction with appropriate CITY and A/E consultant staff, shall schedule and conduct an overview of the Project. The overview shall include CONSULTANT'S development of a "punch list" of items needing completion or correction prior to consideration of final acceptance. The list shall be forwarded to the Contractor. For the purposes of this provision, substantial completion shall be deemed to be the stage in construction of the Project where the Project can be utilized for the purposes for which it was intended, and where minor items not be fully completed, but all items that affect the operational integrity and function of the Project are capable of continuous use.

Upon notification from Contractor(s) that all remaining "punch list" items have been resolved, the CONSULTANT, in conjunction with appropriate CITY and A/E consultant staff, shall perform a final review of the finished Project. Based on successful completion of all outstanding work items by the Contractor, CONSULTANT shall assist CITY in closing out the construction contract. This shall include, but not limited to, providing



recommendations concerning acceptance of the Project and preparing / collecting necessary documentation, including but not limited to, lien waivers, Contractor's final affidavit, close-out change orders, and processing of the final payment application.

- Deliverables - Receive Contractor substantial completion notification.
- Coordinate and attend field meetings to review substantial completion.
  - Prepare and verify that punch lists are completed.
  - Certify Project completion to appropriate agencies.

- Schedule - Ongoing throughout Program.

**Task 5.3 – Post Project Services:** CONSULTANT shall assist City with the coordination of requested warranty work from the various Project Contractor(s). This assistance shall be provided for the duration of the Project to a period not to exceed the completion date of this Agreement. In addition, CONSULTANT shall transfer all Project files to the CITY at the completion of the Project. It is assumed that the CITY shall make arrangements for placement of files in storage as required. Also, CONSULTANT shall complete CITY furnished A/E consultant and Contractor performance evaluation forms for the Procurement Department. In addition, CONSULTANT shall coordinate the transfer of record drawing mark-ups and applicable test results to the A/E consultants. The A/E consultants shall update CAD files for record purposes and certify Projects as complete, accordingly.

- Deliverables - Assist CITY with warranty work completion.
- Place all Program files in suitable cardboard containers for transfer to CITY storage facilities.
  - Prepare A/E consultant and Contractor performance evaluations.

- Schedule - Ongoing throughout Program.

## **TASK 6 - OTHER DIRECT COSTS**

**Task 6.1 – Mileage:** CONSULTANT anticipates that resident Project representatives shall utilize their own vehicles to travel between the various job sites. Mileage shall be reimbursed at the United States Internal Revenue Service established rate for travel within the City of Miami Beach limits as well as travel within the Miami-Dade, Broward and Palm Beach County areas to attend meetings with stakeholders, regulatory / permitting agencies, utility owners, and planning organizations. Annual adjustments will be made to the established rate based upon the United States Internal Revenue Service.

**Task 6.2 – Communications:** To facilitate communications between office and field staff, CONSULTANT anticipates the use of Nextel radio cellular phones for office and resident Project representative staff. Monthly service includes phone, battery, accessories, unlimited radio talk time, and up to 300 minutes of cellular phone use per month. An allowance has also been included for battery replacements, rapid battery chargers, vehicle power cords, and protective covers.

**Task 6.3 – Software Costs:** CONSULTANT shall purchase one (1) software license for the Management Information System which includes Primavera Project Planner, version 3.0, Expedition, and CallTrak software. CONSULTANT shall also purchase Novell software for its program office server (one license for up to 10 users), software for tape backup system, Internet Explorer, Microsoft Office (MS-Word, MS-Excel, MS-Outlook) and Windows operating system software. CONSULTANT shall purchase maintenance service agreements for the software to include software upgrades. At the conclusion of the Program, CITY shall take possession of the software. All software licenses shall be valid through fiscal year 2005.

**Task 6.4 – Hardware Costs and LAN / WAN Maintenance:** CONSULTANT shall purchase computer hardware for the Program office to establish a Local Area Network (LAN). A Hewlett Packard LC2000 small workgroup network server with swappable drives and NetRAID disk array controller shall be utilized for networking purposes. An internal 40 GB internal tape drive system shall be utilized to backup the network every week. Pentium based computers with CD, floppy drives and internal hard drive operating on MS-Windows software shall be purchased with 17-inch color monitors. At the conclusion of the Program, CITY shall take possession of the hardware.

**Task 6.5 – Office Space:** CONSULTANT shall enter into a six year lease at the Giller Building, 975 Arthur Godfrey Road for approximately 2,000 square feet of office space to house proposed Program specific staff. The proposed office lease rate includes janitorial services, utilities (water/sewer, electric), real estate taxes, security and internet access. Electrical costs included in the base office lease rate are based upon air climate control being provided Monday through Friday, 8 am to 6 pm and Saturday from 8 am to 1pm. Should additional air climate control services be required after normal building hours, costs shall be borne by the CITY. Costs to renovate the space, purchase of furniture and the costs to maintain up to six telephone lines shall be borne by the CONSULTANT. One parking space is provided with the office space. CONSULTANT anticipates that the CITY shall provide City parking placards/permits for the Program staff (up to 17 staff members) at no charge to the CONSULTANT.

**Task 6.6 – Reproduction Services:** CONSULTANT shall be reimbursed at the usual and customary rate for reproduction of reports including but not limited to, photocopying, cover laminations, bindings, etc. Reports to be reproduced include the following:

- Program Work Plan
- Program Master Schedule
- Program Cost Model
- Program Management Status Reports
- Program Delivery Analysis Report
- Program Design Standards Manual
- Construction Management Manual

CONSULTANT shall bear costs for incidental reproduction costs associated with the preparation of draft / final deliverables.

## **TASK 7 – SUPPORT SERVICES**

If authorized in writing, by the CITY, prior to commencement of same, the CONSULTANT may furnish Support Services for, but not limited to, the types identified below. These services are not included as part of the Scope of Services except to the extent otherwise provided herein. These support services are Task based and are offered for the purpose of supporting the planning, design and construction of the Program. While the extents of these efforts are not fully known at the present time, the principal tasks that may be required during the Program duration include the following:

**Task 7.1 – Alternative Funding Assistance:** CONSULTANT shall retain the services of Donald F. Roecker, P.E. to assist the CITY for identifying and applying for alternative funding sources. Such assistance may include the following:

- (a) Develop a Screening Report to summarize grant programs available for water, wastewater, stormwater and streetscape related facilities. The CONSULTANT shall review and consolidate the history and background of the CITY's past project planning efforts, state and federal project financial accomplishments, compliance data, development history in the plan area, and past association with state and federal officials with an interest in infrastructure needs. The CONSULTANT shall follow-up with contact to known funding agencies for current program and eligibility information. The CONSULTANT shall meet with CITY to discuss the report. Comments shall be incorporated and a final screening report shall be prepared. The screening report shall consist of a review of agency and legislative funding programs that could possibly be used for a Project or Project component. The purpose of this activity is to determine which agency funding programs may be used by the CITY, the approximate amount of assistance that may be available and the advantages and disadvantages of each funding program. This information shall be incorporated into the proposed Congressional Site Specific Line Item Funding Package (Package) to show our Congressional Delegation and their staff that all available funding sources have been explored before a request for congressional grant was made.

- (b) The CONSULTANT shall prepare a draft and final grant proposal for the infrastructure related components determined feasible by the Screening Report. It is assumed that the CITY and the CONSULTANT shall meet up to three times to determine the nature and scope of the Projects to be included in the grant proposal. Said meetings shall be run in a workshop format and shall focus on developing unique features of the Program may provide. Such benefits may include the incorporation of a unique environmental Project component enhancement, watershed improvements or combining other CITY objectives such as greenways and/or watercourse improvement projects. The result of this effort shall be the selected group of Projects or Project components that shall become the grant proposal or "Package". The CONSULTANT shall then research the elements that led past successful infrastructure Projects to win funding. The CONSULTANT shall attend up to three workshop sessions with the CITY staff to determine the nature, scope, project makeup, and cost of implementation of the Projects or Project components included in the "Package". This activity shall lead to the final Project or Projects selection, a listing of unique Project features, and include an initial technical review of all existing background information. Upon Project component selection, a draft "Package" (i.e., draft grant proposal) including technical aspects shall be prepared and submitted to the CITY for review. The draft "Package" shall incorporate comments and recommendations as appropriate from reviewers and a final "Package" shall be produced for presentation to local, state, and federal officials with interest in infrastructure programs. The CONSULTANT shall monitor and update the CITY on Project related events occurring at the state and federal government levels that may affect the scope, timing or content of the Package's presentation.
- (c) The CONSULTANT shall assist the CITY during negotiations of the grant proposal and with presentation of the proposal to local, regional, state, and federal parties. The CONSULTANT shall also provide technical support and assistance for the Package in Florida and Washington D.C. These meetings shall be targeted at securing written support for the Package. Under this scope, three meetings are assumed. The CONSULTANT shall prepare the following deliverables during this task:

- ❑ An Executive Summary of the Project's salient features that would be appropriate for local, state, and federal presentation.
- ❑ A binder containing background information used in developing the Project for submittal to appropriate state and federal staff presentation. Said binder shall also include a "question/answer" document, which shall address typical state and federal questions that have been used to judge the merits of similar Packages for similar communities.
- ❑ Letters of support received from appropriate state, regional, county, and local officials.

**Task 7.2 – Public Information Hotline:** CONSULTANT shall provide a single telephone number that shall be publicized and made available to the public to obtain information about ongoing construction activities and to voice a concern or complaint. This hotline shall be located in the Program Management Office and be automated to log all calls. CONSULTANT shall review all calls with appropriate CITY staff and respond to each request for information or complaint within twenty-four (24) hours. A written report on each request for information or customer complaint shall be prepared and summarized in a monthly report.

**Task 7.3 – Surveying:** CONSULTANT shall arrange for and coordinate the efforts of licensed surveyors to verify construction layouts and controls for line, grade and dimensional conformance with the plans and specifications. This task shall be utilized as a tool to verify the Contractors' layout, as deemed necessary by CONSULTANT.

**Task 7.4 – Community Involvement and Public Information Program:** In addition to the public meetings specified under the Phase 3 Design Phase Program Management Services, the CONSULTANT, working in concert with CITY staff, shall implement a community involvement program to keep affected stakeholders abreast of Program status. The objectives of the community involvement program are to inform and educate the public about Program elements and benefits. This shall allow the CONSULTANT to

provide stakeholders with accurate and timely information, and discuss the impact of the Program from the stakeholder's perspective. In addition to these general meetings detailed above, specific detailed meetings shall be held to provide additional information for stakeholders that shall be directly impacted by the Program. Follow up activities may include, but not limited to, phone calls, additional meetings, correspondence or development of additional informational materials. These determinations shall be made on an individual basis for each interest group. CITY shall assign a representative to each geographical area to serve as the focal point to receive and address comments / concerns from CITY residents and / or business owners. CITY staff shall coordinate responses between the CONSULTANT and concerned citizens.

The objective of the community involvement program is to generate community understanding of the Program, and may include, but not limited to the following:

- (a) Inform and educate the general public, visitors and business owners of the overall Program elements and benefits.
- (b) Prioritize the issues that have direct impact on residents, visitors and businesses.
- (c) Implement components of an ongoing public information campaign that shall:
  - (1) keep the public well informed about the Program;
  - (2) highlight the progress of the Program; and
  - (3) emphasize the importance of developing a comprehensive infrastructure system for Miami Beach.
- (d) Inform the public about construction time lines over the next six years.
- (e) Develop materials and information, written in everyday terms, that give the public an accurate picture of the Program's progress.
- (f) Encourage community participation in the planning phases of neighborhood Projects.

Deliverables - Public relations campaign for the general public.

Schedule - Ongoing throughout program.

**Task 7.4.1 – Public Meetings**

Due to the size and magnitude of the Program, the CONSULTANT shall hold one meeting in each of the affected neighborhoods (Exhibit A) to inform the public on the Program and to specify work that shall be ongoing in the respective areas. The CONSULTANT shall identify and secure an appropriate meeting location, plan, prepare and produce all handout materials, attend, conduct and prepare minutes and follow-up materials for all meetings. As appropriate, materials shall be printed in both English and Spanish. Meeting minutes shall be prepared which identify the list of speakers, attendees, legal notice documentation (if necessary), brief summary of the topics discussed and the concerns / comments made during the meeting. CONSULTANT shall prepare responses to written comments received by the Program Team.

- Deliverables - Meeting agenda and minutes.
- Produce and distribute program materials.
  - Prepare meeting minutes.

- Schedule - Ongoing throughout the Program.

**Task 7.4.2 – Other Direct Costs Associated with Community Involvement and Public Information Program**

1. Postage for bulk mail distributions
2. Supplies for preparation of presentation materials
3. Supplies required to produce all Program reports, such as covers for comb binding systems, ready index uncollated dividers, plastic binding combs.
4. Costs to produce Television media, newspaper / magazine print ads and reproduction of brochures, handouts, flyers, and door hangers.



## **STAFF RESPONSIBILITIES**

### **Patrick A. Davis, P.E. – Program Director**

- Provide program direction and support to the Program Manager and Deputy Program Manager.
- Assist in the coordination of alternative funding mechanisms.
- Assist in the review of claims and/or change order requests.

### **Bert Vidal, P.E. – Program Manager**

- Primary client contact through all project phases.
- Coordination / responsibility for the Program team including subconsultants and subcontractors.
- Establishing and monitoring schedules and budgets.
- Schedule analysis for comparison with target, milestones and deadlines.
- Coordination and assurance that the Total Quality Management program is successfully implemented.
- Provides significant input and review of all major technical issues.
- Attend and direct program review meetings.
- Provides backup and support to all Team Leaders and technical staff.
- Maintain and update Program Action List.
- Prepare Project Completion Reports.
- Provide input and review of City A/E consultant scope of services.
- Assist in the preparation of the Program Work Plan.
- Assist in the preparation of the monthly Program Management Status Reports.
- Assist in the preparation of the Program Delivery Analysis Report.
- Assist in the preparation of the Construction Management Manual.
- Attend and participate in monthly meetings with the City's A/E consultants.
- Attend and participate in monthly G. O. Bond Oversight Committee meetings.
- Participate and provide input / comment on A/E design projects at the preliminary, intermediate and substantially final completion stages.

- Participate in monthly Construction Progress Meetings with City staff to assess program status with respect to schedule and budgets.
- Attend and participate in Neighborhood Status Meetings.
- Assist in the preparation of cash flow projections, cost curve and other cost summary reports.
- Review, analyze and recommend actions on budget, funds, and construction cost change orders.

**Charles O. Carreño, P.E. – Deputy Program Manager**

- Primary contact for the coordination of subconsultants and subcontractors.
- Establish and monitor Master Program Schedule.
- Establish and monitor individual project schedules.
- Establish and monitor Program Cost Model.
- Establish and monitor individual project budgets.
- Primary contact with the City A/E consultants.
- Provide input and review of City A/E consultant scope of services.
- Assist in the preparation of the Program Work Plan.
- Assist in the preparation of the monthly Program Management Status Reports.
- Assist in the preparation of the Program Delivery Analysis Report.
- Attend and participate in monthly meetings with the City's A/E consultants.
- Attend and participate in monthly G. O. Bond Oversight Committee meetings.
- Participate and provide input / comment on A/E design projects at the preliminary, intermediate and substantially final design documents.
- Establish and monitor permit tracking file.
- Participate in the development of the Construction Management Manual.
- Perform Contractor Bonding Capacity Survey.
- Participate in monthly Construction Progress Meetings with City staff to assess program status with respect to schedule and budgets.
- Attend and participate in Neighborhood Status Meetings.
- Assist in the preparation of cash flow projections, cost curve and other cost summary reports.
- Review, analyze and recommend actions on budget, funds, and construction cost change orders.
- Assist in the preparation of the Program Standards Manual.

**Suresh B. Mistry, P.E. – Engineering Coordinator**

- Primary contact with the CITY A/E consultants.
- Coordinate with Construction Manager on project completion and certification.
- Establish design requirements.
- Preparation of the Program standards for City A/E consultants.
- Establish construction priorities.
- Prepare the Program Standards Design Manual.
- Assist the Construction Manager with the preparation of Project Completion Reports.
- Participate in constructability reviews.
- Process A/E consultant monthly pay requests.
- Assist in the review of A/E consultant claims / change order requests.
- Assist the Construction Manager with the preparation of the Construction Management Manual.
- Verify A/E consultant progress with respect to schedule conformance.
- Attend monthly Utility Coordination Meetings sponsored by Sunshine One Call of Florida to coordinate utility planning among various utility owners.
- Verify that A/E consultants are verifying the location of all critical underground utility locations with respect to proposed works.
- Primary contact with respect to utility master planning among all utility owners.
- Coordinate monthly design review meetings with A/E consultants.
- Monitor the progress of A/E consultants during the design period.

**John O. Hoffman, P.E. – Construction Coordinator** Primary contact with construction contractors.

- Coordinate work efforts of resident project representatives.
- Participate in constructability reviews.
- Verify CITY A/E consultant cost estimates.
- Assist in the preparation of M-DDERM Certification of Completion of Construction submittals.
- Assist in the preparation of Project Completion reports.
- Prepare Project punch out lists for substantially complete projects.
- Coordinate warranty work.
- Process Contractor monthly pay requests.
- Coordinate the services of the CITY retained testing / analytical services firm to QA/QC materials utilized throughout construction.
- Coordinate the services of the professional surveying firm retained by the CONSULTANT to verify Contractor layout and grade.
- Review daily observation reports prepared by resident project representatives.
- Assist in the review of Contractor claims / change order requests.
- Attend monthly Utility Coordination Meetings sponsored by Sunshine One Call of Florida to coordinate utility planning among various utility owners.
- Review Contractor two week look ahead schedules to assist Program Team with critical coordination tasks.
- Verify that Contractors are maintaining record drawing information.
- Verify the accuracy of record drawings prepared by A/E Consultants.

**Gloria Brown – Document Control Manager**

- Responsible for management of document control system.
- Enters incoming and outgoing documents in the document control system.
- Receives and processes all incoming and outgoing documents.
- Receives and processes all Construction Management office documents.
- Prepares tracking documents for contractor submittals.
- Locates and retrieves documents for Program staff.
- Distribution and filing of documents.
- Copy documents for distribution and filing.
- Assists in all other areas of document control, as needed.

**Administrative / Clerical Services**

- Answer phones.
- Type and distribute program correspondence and reports.
- Arrange and coordinate meetings.
- General secretarial functions.
- Order and maintain equipment, supplies, etc.
- Assist Document Control staff, as needed.
- Miscellaneous tasks, as assigned.
- Assign responsible party to resident inquiries.

**Ana M. Gonzalez, P.E. – Program Reporting**

- Assist in the preparation of the monthly Progress Status Report.
- Assist in the development of cost information for monthly progress reports.
- Develop tables, queries and macros.
- Develop report formats.
- Prepare graphics, schematics, and handouts for monthly G.O. Bond Oversight Committee Meeting.
- Prepare graphics for Neighborhood Community Meetings.
- Assist in the maintenance of the Program Internet Web page.
- Maintain City A/E design consultant invoice file.
- Assist in processing City A/E design professional invoices.
- Assist in drafting correspondence to City A/E design professionals regarding the Infrastructure Improvement Program.
- Assist in the preparation and maintenance of a Master Project Activity database which incorporates all City projects, BellSouth, FPL, Charter Communications, FDOT, SFWMD, M-DDERM, M-DPWD, M-DWASD, private development, fairs and / or festivals, Convention Center events, etc.
- Act as a liaison with the development community as well as the City's Community Resource Officers.
- Assist in review of Infrastructure Improvement Program projects for conflicts.
- Provide updated information on the program to private sector community organizations such as the Miami Beach Chamber of Commerce, Miami Beach Visitor's Convention Authority, etc.
- Respond to daily calls and information requests from developers and the general public on projects and activities of the program.

**A<sup>2</sup> Group - Project Scheduling and Cost Control**

- Prepare Master Program Schedule.
- Update Master Program Schedule.
- Monitor and revise Master Program Schedule.
- Prepare individual project schedules.
- Update individual project schedules.
- Monitor and revise individual project schedules.
- Develop project work breakdown structures and schedules.
- Develop cost loaded schedules for program components.
- Provide schedule information upon request.
- Review and update milestone List of Deliverables and due dates to ensure compliance with contract requirements.
- Provide schedule information for monthly Program Status Reports.
- Establish Program Cost Model which incorporates all individual projects.
- Update project costs from A/E design professional reports.
- Develop new program costs and cash flows.
- Update program expenses based upon authorization letters.
- Maintain project cost information and cost accounts establishments
- Close individual project cost accounts and monitor final payments, project completion costs



**Garber & Goodman – Community Outreach Program**

- Act as a liaison with the development community as well as the City's Community Resource Officers.
- Provide updated information on the program to private sector community organizations such as the Miami Beach Chamber of Commerce, Miami Beach Visitor's Convention Authority, etc.
- Assist in the response to daily calls and information requests from developers and the general public on projects and program activities.
- Develop a Public Awareness Plan to disseminate program information to the general public and private developers concerning all projects and when they shall be coming on line.
- Notify and meet with all groups who have an interest or are directly impacted by the Program.
- Select location for meetings, then plan, prepare and produce all handout materials.
- Attend, conduct and prepare minutes and follow-up materials for all meetings. Materials shall be printed in English and Spanish.
- Set up and attend specific detailed meetings to be held in each area to provide additional information for stakeholders that shall be directly impacted by the Program.
- Set up and attend meetings in close proximity to where the actual construction work shall take place.
- Plan and implement ongoing media campaign.
- Create newspaper ads, television spots and signage relating to the projects.
- Oversee web site development and program hotline.
- Produce road show presented by City representatives.
- Produce an educational program for public and private schools.
- Oversee video taping and photography of construction activities.
- Provide updated information on the Program to private sector community organizations.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SELECTION OF A PUBLIC ART COMMISSION FOR SOUTH POINTE PARK, ENTITLED "DRIFT", AS RECOMMENDED BY THE ART IN PUBLIC PLACES COMMITTEE AND NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE; FURTHER APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT WITH THE ARTIST, IÑIGO MANGLANO-OVALLE, IN THE AMOUNT OF \$500,000, FOR DESIGN, CREATION, AND INSTALLATION OF THE AFORESTATED WORK OF ART; AND FURTHER APPROPRIATING FUNDS, IN AN AMOUNT NOT TO EXCEED \$500,000, AS FOLLOWS: \$153,000, FUND – 147 ART IN PUBLIC PLACES FROM SOUTH POINTE PARK PROJECT; \$135,000, CAPITAL BUDGET SOUTH POINTE CAPITAL FUND – CONTRIBUTION FOR SOUTH POINTE AREA ART IN PUBLIC PLACES; AND \$212,000, FY 2006 SOUTH POINTE CONTINGENCY CAPITAL FUND; FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE CITY'S ARCHITECTURAL AND ENGINEERING CONTRACT WITH HARGREAVES ASSOCIATES, INC. IN THE AMOUNT OF \$36,962.00 RELATIVE TO THE AFORESTATED PROJECT.

**WHEREAS**, in the Fall of 2005, the Art in Public Places (AiPP) Committee, with direction from the City Administration, embarked on commissioning an internationally recognized artist that would create an original work of art in conjunction with the re-design and renovation of South Point Park; and

**WHEREAS**, in November 4, 2005, the AiPP Committee met and short listed the following seven artists: Jonathan Borofsky, Teresita Fernandez, Sol LeWitt, Iñigo Manglano-Ovalle, Jorge Pardo, Jaume Plensa, and Kiki Smith; and

**WHEREAS**, subsequently, the AiPP Committee reviewed the resumes of the seven artists focusing on: solo exhibitions, group exhibitions, public collections, public commissions, an international reputation, completion of public arts projects, and working within the City's proposed \$500,000 project budget; and

**WHEREAS**, in December 8, 2005, the AiPP Committee met to short-list the artists: Teresita Fernandez was not available to work on a project during the proposed timetable; Jonathan Borofsky would not work with a budget of \$500,000; Sol LeWitt would not create an original work of art; and Jaume Plensa and Kiki Smith would not enter a competition; and

**WHEREAS**, at the December 8, 2005, the AiPP Committee voted on two finalists; Iñigo Manglano-Ovalle and Jorge Pardo; and

**WHEREAS**, the two selected artists entered into initial agreements with the City to develop and submit a conceptual proposal for a work of art for South Pointe Park, by February 17, 2006; and

**WHEREAS**, the two artists were paid a fixed fee of five thousand dollars (\$5,000) each, and in exchange would submit a proposal narrative describing their respective design intent and drawings; graphic or other visual representation of the work, together with such other data and

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graphic material as necessary to portray the work; site preparation; all to permit the City to assess the feasibility of the proposed work of art; and

**WHEREAS**, on February 23, 2006, artists Iñigo Manglano-Ovalle and Jorge Pardo each gave a thirty minute presentation to the AiPP Committee and discussed their respective proposals for South Pointe Park; and

**WHEREAS**, on February 23, 2006, the AiPP Committee selected the preliminary proposal for the art project, entitled "Drift", submitted by the artist Inigo Manglano-Ovalle; and

**WHEREAS**, on March 22, 2006, the Neighborhoods/Community Affairs Committee reviewed and recommended approval of the aforesated proposed art project as well; and

**WHEREAS**, Mr. Manglano-Ovalle is an internationally recognized artist currently employed by The School of the Art Institute of Chicago; and

**WHEREAS**, the Administration concurs with the advisory recommendations of the AiPP Committee and the Neighborhoods/Affairs Committee, respectively, and would further recommend that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute the attached Agreement, in the not to exceed amount of \$500,000, with Mr. Manglano-Ovalle (Artist), for design, creation, and installation of the aforesated work of art, entitled "Drift"; and

**WHEREAS**, funding, not to exceed \$500,000 is available as follows: \$153,000, Fund – Art in Public from South Pointe Park Project; \$135,000, Capital Budget South Pointe Capital Fund – Contribution for South Pointe Area Art in Public Places; and \$212,000, FY 2006 South Pointe Contingency Capital Fund; and

**WHEREAS**, the Administration would also recommend that the Mayor and City Clerk be authorized to execute an amendment to the City's architectural and engineering contract with Hargreaves Associates, Inc. in the amount of \$36,962.00 relative to the aforesated project.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve the selection of a public art commission for South Pointe Park, entitled "Drift", as recommended by the Art in Public Places Committee and Neighborhoods/Community Affairs Committee; further approving and authorizing the Mayor and City Clerk to execute a contract with the Artist, Inigo Manglano-Ovalle, in the amount of \$500,000, for design, creation, and installation of the afforested work of art; and further appropriating funds, in an amount not to exceed \$500,000, as follows: \$153,000, Fund – Art in Public from South Pointe Park Project; \$135,000, Capital Budget South Pointe Capital Fund – Contribution for South Pointe Area Art in Public Places; and \$212,000, FY 2006 South Pointe Contingency Capital Fund.

**PASSED and ADOPTED** this \_\_\_\_\_ day of April, 2006.

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**MAYOR**

Attested by:

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**CITY CLERK**

**Agreement between**  
**City of Miami Beach, Florida and Iñigo Manglano-Ovalle, Artist,**  
**For Commissioned Artwork at South Pointe Park**

This Agreement is made and entered into by and between: CITY OF MIAMI BEACH, a Florida municipal corporation (CITY), and IÑIGO MANGLANO-OVALLE, an individual, (ARTIST).

**WHEREAS**, CITY, with the support and cooperation of the City of Miami Beach Art in Public Places, plans to install a unique and original work of art (also referred to herein as the artwork) at South Pointe Park, located at 1 South Pointe Drive, Miami Beach, Florida (hereafter referred to as the Site); and

**WHEREAS**, pursuant to this Agreement, ARTIST will create said unique and original work of art; and

**WHEREAS**, both parties wish to be represented by said work of art.

**NOW THEREFORE, IN CONSIDERATION** of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, CITY and ARTIST agree as follows:

**ARTICLE 1**  
**DEFINITIONS AND IDENTIFICATIONS**

The definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1 **Agreement.** This document, and other terms and conditions which may be included in the exhibits and documents that are expressly incorporated by reference, as well as any amendments thereto.
- 1.2 **Artist.** Iñigo Manglano-Ovalle, the individual selected to create the work of art contemplated pursuant to this Agreement.
- 1.3 **Architect.** Hargreaves Associates, 180 Varick Street, New York, New York 10014. The Architect has been retained by the City, pursuant to City Request for Qualifications (RFQ) No. 39-03/04, to provide professional services with respect to architecture, landscape architecture, engineering, and construction administration services needed to complete the planning, construction design, and construction of the South Pointe Park Improvement Project. For purposes of the Agreement, Architect shall be the individual designated by the City who, in conjunction with the Contract Administrator, shall also serve as the City's authorized representative with respect to certain reviews and approvals, as required by the City in this Agreement, including, without limitation, the design and permitting of the Work, and coordination of the Work with respect to the City's South Pointe Park Project. Architect's services to City, with respect to the Project, are attached as Exhibit A-1 hereto.
- 1.4 **City.** The City of Miami Beach, Florida. Unless otherwise provided in the Agreement, where certain approvals and submissions are required from the City in this Agreement, those shall be required by the Mayor and City Commission of the City of Miami Beach, Florida.
- 1.5 **City Manager.** Shall mean the Chief Administrative Officer of the City.

- 1.6 **Contract Administrator.** The designee of the City Manager, who shall be the City's authorized representative to coordinate, direct, and review (with Architect, as applicable) on behalf of the City, all matters related to the Work, except as otherwise provided herein.
- 1.7 **City Attorney.** The chief legal counsel for CITY who directs and supervises the Office of the City Attorney.
- 1.8 **Notice to Proceed.** A written Notice to Proceed for the Project issued by the Contract Administrator.
- 1.9 **Project.** That certain unique and original work of art (also referred to as the artwork) to be created by Artist and installed on the Site, and to be known as "*Drift*".
- 1.10 **Work.** Any work(s) required by Artist under this Agreement (including without limitation Exhibit A hereto), to successfully complete the Project.

ARTICLE 2  
SCOPE OF SERVICES

- 2.1 ARTIST shall perform all Work identified in this Agreement and Exhibit A for the design, permitting, fabrication, transportation, and installation of the Project.
- 2.2 ARTIST acknowledges and agrees that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement, and that any such change and/or modification must be approved (if at all) by the City Manager or the Mayor and City Commission, in their respective sole discretion, prior to implementation of same. Any such change or modification, if approved, shall be memorialized in writing as an amendment to this Agreement.
- 2.3 ARTIST shall provide monthly Project progress reports and/or deliverables in a form and manner acceptable to the Contract Administrator.
- 2.4 Upon installation of the Project, the ARTIST shall furnish the Contract Administrator with professional photographic documentation showing the completed work of art. Photographs shall include the following:
1. Two (2) identical sets of twelve 35mm color slides illustrating various aspects of the artwork within the site.
  2. Two 4x5 color transparencies.
  3. Four 8x10 black and white photographs.

Slides and photographs shall be of acceptable professional quality, and shall be in such form and manner as acceptable and satisfactory to the Contract Administrator.

In addition to the photographic documentation referenced above, ARTIST shall also, upon completion of the Project, provide Contract Administrator with any and all sketches, drawings, construction documents, and as-built plans (if applicable) showing and/or accurately depicting the completed Project and work of art.

- 2.5 Upon completion of the Project, ARTIST shall provide Contract Administrator with a detailed written schedule and instructions for the routine care, maintenance, and preservation specific to the Project, as set forth in Exhibit C, Cataloguing Form, attached and made a part hereof.
- 2.6 ARTIST shall be solely responsible for the quality and timely prosecution, completion and installation of the Work and the Project. The ARTIST shall be responsible for designing the Project so that it can be constructed without exceeding the approved overall budget.
- 2.7 While ARTIST acknowledges and warrants that an essential element of this Agreement is the personal skill and creativity of the ARTIST, and that he is responsible for the quality of the Project, the ARTIST may subcontract and/or assign portions of the Work to another party subject to the prior written consent of the Contract Administrator. If so transferred, ARTIST will still be held ultimately responsible for all provisions of the Work. ARTIST further warrants that he shall be solely responsible for supervision of and any compensation to such third parties, and that the City shall have no liability with regard to same.
- 2.8 ARTIST agrees that all Work shall comply with all applicable Federal, State, Miami-Dade County, and City of Miami Beach laws, ordinances, codes and regulations. ARTIST shall be solely responsible for obtaining any and all required approvals and permits for the Project.
- 2.9 The ARTIST shall not make any public information release in connection with the Project and/or the Work performed pursuant to this Agreement without the prior written consent of the Contract Administrator.
- 2.10 The ARTIST shall take all necessary steps to coordinate the Work, as may be directed by the Contract Administrator and/or Architect, with any ongoing work of the CITY, or any third party under the direction and control of the City, on or near the Site including, without limitation, the South Pointe Park Project.

In the event the services of the ARTIST are combined or otherwise coordinated with ongoing work of the City or a third party responsible to the City (and not within the control of the ARTIST), the ARTIST shall not be responsible for such third party work. If any part of the Work depends upon proper execution or results of work of the CITY, or a third party responsible to the CITY and not under ARTIST's control, the ARTIST shall, prior to proceeding with the Work, promptly report in writing to the Contract Administrator any apparent discrepancies, defects, or delays in such other work which renders his Work unsuitable for timely and proper execution and results by the ARTIST.

- 2.11 While ARTIST is solely responsible for the execution, fabrication, transportation, inspection and installation of the Work and the Project, the following provisions shall apply:
- a. The Contract Administrator shall notify ARTIST of the CITY's, or any other contractor under the direction and control of the CITY, construction schedules in and around the Site, as they are known by the CITY. The ARTIST shall perform the Work in a manner and time so as not to cause interference with any of the operations of the CITY or such third party contractor(s). In the event of conflict between the schedules of a third party contractor, CITY, and ARTIST, the conflict will be resolved by the Contract Administrator, and the Contract Administrator's decision and resolution as to same shall be final and binding upon ARTIST.
  - b. ARTIST shall be solely responsible for conducting any and all inspections of the Site for purposes of ascertaining the condition of same and for the proper execution of the Work, and

completion and installation of the Project. To the extent known or to the extent that same is in CITY's possession, CITY shall make available to ARTIST, without representation, any background materials and information on matters affecting the Site.

- c. When working on the Site, ARTIST shall perform such periodic clean up as may be requested by the Contract Administrator and shall remove any of his equipment, excess materials, and waste promptly from the Site, as directed by Contract Administrator.
- 2.12 ARTIST shall bear any transportation and storage costs resulting from the construction, delivery and installation of the Work and/or the Project.
- 2.13 Title to the Project shall pass to the CITY following the Contract Administrator's inspection of the Work and, if the Work is approved, upon Contractor's issuance of written final acceptance of the complete installed Project. Upon demand from the City, Artist shall immediately execute a Bill of Sale or such other document, as prepared by the City, memorializing the transfer of title of the Project from Artist to City. In furtherance of the aforesaid, it is understood that any risk of loss or damage to the Work and/or the Project shall be the sole responsibility and liability of ARTIST until such time as the Contract Administrator has issued final written acceptance of the Project, **and** Artist has executed the required Bill of Sale and/or other conveyance document to the City.
- 2.14 Upon Contract Administrator's written final acceptance of the complete installed Project, all documents related to the conception, proposal, fabrication, and installation of the Project including, without limitation, "as built" documents, shall be turned over to the Contract Administrator and become the property of CITY. CITY shall be free to exhibit and/or reproduce these documents as a record of ARTIST's conception of the Project.

### ARTICLE 3 TERM and TIME OF PERFORMANCE

- 3.1 The term of this Agreement shall begin on the date it is fully executed by both parties. Thereafter, ARTIST shall diligently prosecute the Work in accordance with the Project Schedule set forth in Exhibit A-1.
- 3.2 Time shall be deemed to be of the essence in ARTIST's performance of his duties, obligations and responsibilities, as required by this Agreement.
- 3.3 The CITY, through the Contract Administrator, may grant a reasonable extension of time to the ARTIST in the event that there is a delay on the part of the CITY in performing its obligations hereunder; or in making the Site available to ARTIST for proceeding with the Work; or if conditions beyond the ARTIST'S control render timely performance of the ARTIST'S services impossible or unexpectedly burdensome. All requests for extensions of time must be submitted in writing to the Contract Administrator by the ARTIST as soon as the delay or conditions become known and their impact is evaluated, and shall not be effective unless approved in writing by the Contract Administrator.
- 3.4 Either party is excused from performance and shall not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of a force majeure event such as hurricane, fire, civil disobedience, riots, rebellions, explosion, flood, storm, Acts of God, and similar occurrences. Failure to fulfill contractual obligations due to force majeure set forth in the preceding sentence will

not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

#### ARTICLE 4 COMPENSATION

- 4.1 CITY agrees to pay ARTIST, in the manner specified in Section 4.4 and Exhibit B, "Compensation and Schedule of Payments", the total amount of Four Hundred and Ninety-Five Thousand Dollars (\$495,000.00) for Work actually performed, completed and accepted pursuant to this Agreement, which amount shall be the total compensation to ARTIST for the Project. No amount shall be paid to ARTIST for reimbursable or other expenses.
- 4.2 At its sole discretion, CITY may include a contingency, not to exceed ten (10%) percent of the Project budget, to provide for unforeseen costs, including but not limited to, construction delays or Site changes. This amount, in whole or in part, shall be included for the sole benefit of the City and shall not be considered part of ARTIST'S compensation.
- 4.3 ARTIST may submit invoices for compensation no more often than on a monthly basis, but only after the portion of the Work for which the invoices are submitted has been satisfactorily completed and accepted by the Contract Administrator. An original invoice plus one copy is due within fifteen (15) days of the end of the month, except the final invoice which must be received no later than sixty (60) days after completion of all Work by ARTIST. Invoices shall designate the nature and portion of the services and/or Work performed. A written Project progress report shall accompany each invoice, describing the Work completed during that period.
- 4.4 CITY shall pay ARTIST for Work satisfactorily performed and accepted by the Contract Administrator, within thirty (30) calendar days of receipt of ARTIST's proper statement. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted in such form and manner as shall be prescribed by Contract Administrator.
- 4.5 Notwithstanding any provision of this Agreement to the contrary, CITY may, at the sole discretion of the Contract Administrator, withhold, in whole or in part, a portion of any or all payments due under the Agreement, to the extent necessary to protect itself from loss on account of inadequate or defective Work which has not been accepted by Contract Administrator, and has not been remedied or resolved in a manner satisfactory to Contract Administrator.
- 4.6 Payment shall be made to ARTIST at:

Íñigo Manglano-Ovalle  
1235 North Rockwell  
Chicago, Illinois 60622

#### ARTICLE 5 CHANGES IN SCOPE OF SERVICES



- 5.1 Any change to the Scope of Services must be accomplished by a written amendment, approved by the City Commission and/or the City Manager, as applicable and executed by the parties in accordance with Section 12.16.
- 5.2 The ARTIST shall, whenever required during the term of this Agreement, present to Contract Administrator (in writing, drawings or other appropriate media) for further review and approval, any significant changes in the scope, design, color, size, material, utility and support requirements, and/or texture of the Work or of the Project, or location of the Site. A significant change is any change that affects the size, quality, installation, scheduling, Site preparation or maintenance of the Work, and/or the Project, or the concept of the Project, as represented in the original approved design.

#### ARTICLE 6 ARTIST'S WARRANTIES

- 6.1 The ARTIST warrants that (a) the Project being commissioned is the original product of the ARTIST's own creative efforts; and (b) the Project is original, or in other words, an edition of one (1), and shall in no way be duplicated, copied, and/or otherwise replicated by Artist with respect to any future commissioned public or private projects.
- 6.2 The ARTIST warrants that reasonable maintenance of the Project will not require any extraordinary procedures.
- 6.3 The ARTIST warrants that ARTIST shall deliver the Project to the CITY free and clear of any liens from any source whatsoever.
- 6.4 The ARTIST warrants that he shall faithfully perform the Work in accordance with standards of care, skill, training, diligence and judgment provided by highly competent professionals who perform work of a similar nature.

#### ARTICLE 7 OBLIGATIONS OF CITY

- 7.1 CITY shall assist ARTIST by providing, upon ARTIST's request, but without representation by City of any kind, all public information it has in its possession pertaining to the Site.
- 7.2 CITY shall:
- a. arrange for access so that ARTIST may enter upon the Site as required for ARTIST to perform the Work under this Agreement;
  - b. give prompt written notice to ARTIST whenever the CITY becomes aware of any development that affects the scope or timing of the Work;
  - c. arrange public meetings and consultations, as deemed necessary by the City to fulfill the ARTIST's obligations under this Agreement;
  - d. review materials (whether through Contract Administrator or Architect, as provided in Exhibit A-1 hereto) submitted pursuant to Exhibit A in a reasonably timely manner;

- e. prepare and install, at its expense, a plaque or sign identifying the ARTIST, the title of the Project, materials used, year of completion, and a narrative explanation of the Project, including ARTIST's credits, and reasonably maintain such notice in good repair;
- f. reasonably assure that the Project is properly maintained, taking into account the recommendations of the ARTIST, as stated in the Cataloging Form provided by the ARTIST.

## ARTICLE 8 ARTIST'S RIGHTS

- 8.1 It is understood that the specific location of the Project and its permanent public installation is integral to this Agreement. CITY agrees to make all reasonable efforts to maintain the integrity of the Project as defined by its location (the Site). The City will not knowingly make any use of the Project in a manner which would reflect unfavorably on ARTIST's name or reputation as an artist or which would violate the spirit of the Project or interfere with its creative intent.
- 8.2 CITY shall make a diligent effort to notify ARTIST of any proposed CITY action that would remove the Project from the Site, or have the result of irreparably damaging or destroying the Project, by providing notice to ARTIST by registered mail at the most recent address submitted by ARTIST and on file with the CITY. In that event, CITY shall offer the ARTIST the option of removing the Project from the Site, at no charge to ARTIST for the Project itself, provided that ARTIST will move and/or transport the Project from the Site at his sole cost and expense, and CITY shall have no liability to ARTIST as to the means and method of removal and transport, and shall have no other liability to ARTIST in the event the Project is damaged or destroyed in the process. In the event that ARTIST fails, within ninety (90) days of receipt of such notice, to remove the Project, CITY shall have the right to proceed with the removal of the Project. In the event that CITY makes a diligent, good faith attempt, without success, to notify the ARTIST of its intended action, CITY shall have no further liability to ARTIST under this Agreement, or as to the Project, and ARTIST shall be deemed to have waived any and all claims that he may have against CITY, as a result of damage or destruction of the Project. The provisions of this subsection 8.2 shall be non-transferable and only apply as to ARTIST, and shall not apply or be enforceable by any heirs, successors, assignees, and/or other transferees and / or successors in interest of ARTIST.
- 8.3 CITY agrees to take such measures as it deems reasonable and necessary to maintain the Project, which includes maintenance and repair of each and every component part. CITY shall have the right to determine, after consultation with a professional conservator, when and if repairs and restorations to the Project will be made. During ARTIST's lifetime, CITY shall not repair the Project without consulting with the ARTIST. CITY shall attempt to notify ARTIST in the same manner as provided in subsection 8.2 above and, in the event the CITY makes a diligent, good faith attempt, without success, to notify ARTIST of its intended action, CITY shall have no further liability to ARTIST under this Agreement, or as to the Project, and ARTIST shall be deemed to have waived any and all claims that he may have against CITY, as a result of subsequent repairs or restoration to the Project, or in the event damage or destruction of the Project pursuant to this subsection 8.3. To the extent practical and during ARTIST's lifetime, the CITY, may in its reasonable discretion, consider ARTIST in making or personally supervising significant repairs and, if CITY so deems ARTIST'S participation is necessary, ARTIST shall be paid a reasonable fee for any such services, provided that CITY and

ARTIST shall agree in writing, prior to the commencement of any significant repairs or restorations, upon ARTIST'S fee for such services. All repairs and restorations shall be made in accordance with recognized principles of conservation.

#### ARTICLE 9 COPYRIGHTS

- 9.1 Neither the whole nor any portion of the Project shall be the subject of any application for copyright or patent by or on behalf of the ARTIST without the prior written consent of the CITY. If such consent is given, and notwithstanding such rights, ARTIST hereby grants to CITY a non-exclusive, perpetual, irrevocable, and royalty-free license to reproduce, make, print and/or publish photographic, filmed or videotaped reproduce, make, print and/or publish photographic, filmed or videotaped reproductions and other two-dimensional likenesses of the Project and/or the proposals for the Project for such purposes as determined solely by the CITY in its reasonable discretion. In this connection, it is understood that public uses including, without limitation, public promotional and advertising uses, are without limitation. It is also understood that either of the parties to this Agreement may also permit photographic, filmed, videotaped or other reproductions of the Project to appear as editorial matter in newspapers, magazines, periodicals, books, motion picture films and/or videotaped films. In connection with any such reproduction and publication by any party, that party shall arrange for appropriate credit identifying the name of the ARTIST as the Project's creator, the title of the Project, the materials, dimensions, and the location thereof.
- 9.2 ARTIST agrees that all Work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes. The ARTIST further agrees that the Work will not utilize any protected patent, trademark or copyright unless ARTIST has obtained proper permission and all releases and other necessary documents.
- 9.3 If the ARTIST uses any protected material, process or procedure, the ARTIST shall disclose such patent, trademark or copyright in the construction drawings and technical specifications.

#### ARTICLE 10 TERMINATION

- 10.1 This Agreement may be terminated for cause by CITY, through the Contract Administrator, or by ARTIST, upon thirty (30) days prior written notice by the party that elected to terminate.
- 10.2 Termination of this Agreement for "cause" shall include failure to continuously perform the Work in a timely manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement; a breach of the provisions of this Agreement (notwithstanding whether any such breach was previously waived or cured); or (by City only) for any other reason necessary to protect the health, safety, or welfare of the general public.
- 10.3 Notice of termination shall be provided in accordance with the NOTICES section of this Agreement except that notice of termination which Contract Administrator deems necessary to protect the public health, safety, or welfare may be by verbal notice which shall be promptly confirmed in writing in accordance with the NOTICES section of this Agreement.
- 10.4 In the event of a termination under this Article, the CITY shall be fully discharged from any and all liabilities, duties and terms arising out of/or by virtue of this Agreement except for any compensation due and owing to ARTIST with regard to Work satisfactorily performed and accepted prior to the period before the effective date of termination. Notwithstanding the above, the ARTIST shall not be

relieved of liability to the CITY for damages sustained by the CITY by any breach of the Agreement by ARTIST. The CITY, at its sole option and discretion, shall be additionally entitled to bring any and all legal/equitable actions as it may deem necessary to enforce the CITY's rights and remedies against ARTIST. The CITY shall be entitled to recover all costs of such actions, including reasonable attorney's fees.

- 10.5 The death or permanent incapacity of the ARTIST shall automatically terminate this Agreement. Neither the ARTIST nor the ARTIST's estate shall have any further right to perform hereunder. The CITY shall pay the ARTIST's estate the compensation payable for any Work rendered prior to such termination not heretofore paid, reduced by the amount of additional costs that shall be incurred by the CITY by reason of such termination.

#### ARTICLE 11 MISCELLANEOUS

11.1 AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of ARTIST that are related to this Project. ARTIST shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

ARTIST shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to ARTIST's records, ARTIST shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CITY or ARTIST.

11.2 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, and AMERICANS WITH DISABILITIES ACT

ARTIST shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. ARTIST shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, ARTIST shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

ARTIST's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

ARTIST shall not engage in or commit any discriminatory practice in violation of the Miami Beach Human Rights Ordinance, as same may be amended, in performing any services pursuant to this Agreement.

11.3 PUBLIC ENTITY CRIMES ACT

ARTIST represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Fla. Stat. §287.133), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities.

In addition to the foregoing, ARTIST further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a public entity crime and that it has not been formally charged with committing an act defined as a public entity crime regardless of the amount of money involved or whether ARTIST has been placed on the convicted vendor list.

11.4 INDEPENDENT CONTRACTOR

ARTIST is an independent contractor under this Agreement. In providing such services, neither ARTIST nor its agents shall act as officers, employees, or agents of the CITY. This Agreement shall not constitute or make the parties a partnership or joint venture, and furthermore, this Agreement does not constitute a work for hire arrangement or agreement.

11.5 THIRD PARTY BENEFICIARIES

Neither ARTIST nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

11.6 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR CITY:

Art in Public Places  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139  
Attn: Dennis Leyva

with copies to:  
City Manager  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, Florida 33139

FOR ARTIST:

Iñigo Manglano-Ovalle  
1235 North Rockwell  
Chicago, Illinois 60622

11.7 ASSIGNMENT AND PERFORMANCE

ARTIST shall not assign, transfer, or encumber all or any portion of this Agreement without the prior written consent of the CITY, which consent, if given at all, shall be at the City's sole discretion. .

ARTIST represents that all persons providing any Work required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such Work and/or for the agreed compensation.

ARTIST shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of ARTIST's performance and all interim and final Work provided to or on behalf of CITY shall be comparable to the best national and international standards.

11.8 CONFLICTS

Neither ARTIST nor its employees and/or sub-contractors shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ARTIST's loyal and conscientious exercise of judgment related to its performance under this Agreement.

ARTIST agrees that none of its or employees and/or sub-contractors shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, ARTIST agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude ARTIST or any other persons from representing themselves in any action or in any administrative or legal proceeding.

11.9 CONTINGENCY FEE

ARTIST warrants that it has not employed or retained any company or person, other than a bona fide employee and/or sub-contractor working solely for ARTIST, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee and/or sub-contractor working solely for ARTIST, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this

Agreement. For a breach or violation of this provision, the City shall have the right to terminate this Agreement without liability, at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

11.10 WAIVER OF BREACH

The City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. The City's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

11.11 COMPLIANCE WITH LAWS

ARTIST shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing his duties, responsibilities, and obligations related to this Agreement.

11.12 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY elects to terminate this Agreement.

11.13 JOINT PREPARATION

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

11.14 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 13 of this Agreement shall prevail and be given effect.

11.15 APPLICABLE LAW AND VENUE

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Miami Dade County, Florida. BY ENTERING INTO THIS AGREEMENT, ARTIST AND CITY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

11.16 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and approved and executed by the City Commission, if over \$25,000 or the City Manager, if less than \$25,000, and ARTIST.

#### 11.17 PRIOR AGREEMENTS

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with Section 11.16 above.

#### 11.18 MULTIPLE ORIGINALS

This Agreement may be fully executed in three (3) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

#### 11.19 INSURANCE

ARTIST shall maintain, at its sole cost and expense, the following types of insurance coverage at all times throughout the term of this Agreement or until final acceptance of the Project by the Contract Administrator, and installation of the Project, whichever is later:

- a. Comprehensive General Liability in the minimum amount of Three Hundred Thousand (\$300,000) dollars per occurrence bodily injury, death, property damage, and personal injury. This policy must also contain coverage for premises operations, products and contractual liability.
- b. Contractors must submit proof of Workers' Compensation and Employer's Liability in the form of a Certificate of Insurance. All other State regulations apply.
- c. Automobile insurance is required in the amount of Three Hundred Thousand (\$300,000) dollars if ARTIST will be parking vehicles on public property, which is not a designated public parking space, to unload materials/supplies.

The City of Miami Beach must be named as an additional insured and policyholder on all insurance certificates issued. All insurance policies must be issued by companies that are authorized to do business in the State of Florida, and have a rating of B+VI or better in the current edition of Best's Key Rating Guide.

The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days prior written notice to the CITY, and then only subject to the prior written approval of the Contract Administrator. Prior to the Commencement Date of this Agreement, ARTIST shall provide Contract Administrator with a Certificate of Insurance for each such policy. ALL POLICIES SHALL NAME THE CITY OF MIAMI BEACH, FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best's Insurance Guide (latest edition) rating acceptable to the City's Risk Manager, and any replacement or substitute company shall also be subject to the approval of the City's Risk Manager. Should ARTIST fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the CITY may, at its sole discretion, obtain such insurance, and any sums expended by CITY in obtaining said insurance, shall be repaid by ARTIST to CITY, plus ten percent (10%) of the amount of premiums paid to compensate CITY for its administrative costs. If ARTIST fails to repay CITY's expenditures within fifteen (15) days of demand, the total sum owed shall accrue interest at the rate of twelve percent (12%) until paid, and such



failure shall be deemed an event of default hereunder.

11.20 INDEMNIFICATION

ARTIST agrees to indemnify and hold harmless the CITY OF MIAMI BEACH and its officers, employees and agents, from and against any and all actions, claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees, for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other negligent conduct of the ARTIST, its employees, agents, sub-consultants, or any other person or entity acting under ARTIST's control, in connection with the ARTIST's performance of the Work pursuant to this Agreement; and to that extent, the ARTIST shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the CITY in the defense of such claims and losses, including appeals. The parties agree that one percent (1%) of the total compensation to the ARTIST for performance of the Work under this Agreement is the specific consideration from the CITY to the ARTIST for the ARTIST's Indemnity Agreement.

The ARTIST's obligation under this Subsection shall not include the obligation to indemnify the CITY OF MIAMI BEACH and its officers, employees and agents, from and against any actions or claims which arise or are alleged to have arisen from negligent acts or omissions or other negligent conduct of the CITY and its officers, employees and agents. The parties each agree to give the other party prompt notice of any claim coming to its knowledge that in any way directly or indirectly affects the other party.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: City of Miami Beach, Florida, signing by and through its Mayor, authorized to execute same by the City Commission, and ARTIST, duly authorized to execute same.

CITY

City of Miami Beach, Florida

By \_\_\_\_\_

Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 2006

ATTEST:

\_\_\_\_\_

City Clerk

ARTIST

\_\_\_\_\_  
Iñigo Manglano-Ovalle

\_\_\_\_\_ day of \_\_\_\_\_, 2006

WITNESSES:

\_\_\_\_\_

Print: \_\_\_\_\_

WITNESSESS:

\_\_\_\_\_

Print: \_\_\_\_\_

DRAFT

## **EXHIBIT A**

### **SCOPE OF SERVICES**

**ARTWORK/PROJECT:** "Drift"

**PURPOSE:** ARTIST will design, fabricate and install the above original work of art (also referred to as artwork or Project)

**LOCATION OF SITE:** South Pointe Park, 1 South Pointe Drive, Miami Beach, Florida.

**ADMINISTRATIVE COORDINATION:** The CONTRACT ADMINISTRATOR shall be the City's authorized representative to coordinate, direct, and review (including Architect, as applicable and as provided herein), on behalf of the City, all matters related to the Work. At his discretion, the Contract Administrator may designate, in writing, a public art project manager. The ARTIST shall maintain regular communication with the public art project manager via phone, fax, letter or e-mail.

**DESIGN COLLABORATION:** During the design of the artwork, the ARTIST shall collaborate and coordinate with the Contract Administrator (or his/her designated public art project manager). The design of the artwork shall be coordinated with the design process for the City's South Pointe Park Improvement Project in the following areas: aesthetics, public presentations, construction documents, cost estimates and South Pointe Park Improvement project schedules. Should the design of the artwork require specialized professional services, the ARTIST shall hire an appropriate sub-consultant and/or sub-contractor, subject to the prior written approval of the Contract Administrator. Upon approval of the artwork design, the ARTIST shall create independently all necessary construction documents for the art and ancillary/support facilities needed to install the art as required by the CITY and/or applicable laws and codes; or provide all necessary information on a timely basis in the event that relevant components of the artwork design must be incorporated into the final construction documents for the South Pointe Park Improvement Project if appropriate.

**CONSTRUCTION AND INSTALLATION COORDINATION:** During the construction of the South Pointe Park Improvement Project and the installation of the artwork, the ARTIST shall collaborate and coordinate with the Contract Administrator (or his/her designated public art project manager). The ARTIST shall coordinate the installation of the artwork in accordance with the South Pointe Park Improvement Project with construction schedule and install the artwork in compliance with the South Pointe Park Improvement Project construction documents. The ARTIST shall be responsible for construction oversight during the fabrication and integration of all artist-designed components, whether fabricated by ARTIST's subcontractors or included in construction documents to be fabricated and installed by others.

**DELIVERABLES:** the ARTIST shall provide the following deliverables:

I-A Research.

1. The ARTIST shall provide documentation of background research involving site specific environmental and cultural elements, site documentation, and future users of the Park.
2. The research phase includes two, two-day, site visits for meetings, including an initial orientation visit, a coordination meeting with the design team, and community representatives and partner agency presentation meeting(s).

I-B Conceptual Design. The ARTIST shall develop a conceptual design proposal for the Project and shall secure the advisory recommendation of its approval by the Miami Beach Art in Public Places (which is an advisory board of the City) as follows:

1. The ARTIST shall personally present the conceptual design proposal to the Art in Public Places Committee.
2. This phase includes a Site visit for presentation to the Art in Public Places Committee and coordination with the Architect.

I-C Design Development. The ARTIST shall complete the design development of the approved artwork and shall secure its approval from the CONTRACT ADMINISTRATOR. Approval and notice to proceed for fabrication shall occur after submittal of all artwork design development deliverables and shall require the additional review and approval of Architect (which shall occur concurrent to Contract Administrator's review and approval process). Based on the requirements of the approved artwork conceptual design, the CONTRACT ADMINISTRATOR may, at his discretion waive the submittal of any unnecessary design development deliverables and authorize ARTIST to proceed to the fabrication and installation phase.

1. The ARTIST shall submit final design drawings for fabrication, artist proofs, material samples, artwork and artwork support specifications for inclusion in the South Pointe Park Improvement Project construction documents, verified cost estimate, sub-contractor list, building permits, and a fabrication and installation schedule.
2. If the verified cost exceeds the budget, the ARTIST shall be obligated to redesign the artwork to fit within the established budget inclusive of all payments to the ARTIST, at no additional charge to CITY.
3. This phase includes a Site visit for coordination and presentation purposes.

I-D Fabrication and Installation. The ARTIST shall fabricate, deliver and install all artwork and artwork support components, as per the approved design development drawings.

I-E Final Conservation Documents. Upon completion and installation of the artwork the ARTIST shall submit all photographic documentation and completed cataloguing forms. If the ARTIST utilizes computer technology in the fabrication of the artwork, the ARTIST will submit electronic copies of any computer files that will support on-going operations or future repairs and conservation of the artwork.

**COMPLETION AND INSPECTION:** Upon completion and installation of all designed and fabricated components, the ARTIST shall be responsible for obtaining final approval from the CONTRACT ADMINISTRATOR.

**PHOTOGRAPHIC DOCUMENTATION:** Professional photo-documentation suitable for publication shall include images of all major aspects of the entire Project. The Artist-supplied photo-documentation shall be reproducible, at no cost to the City, for any and all applicable uses by the City.

**COMMUNITY INVOLVEMENT and EDUCATIONAL OUTREACH:** In the development of the artwork design, the ARTIST shall research the relevant concerns and interests of the CITY, future users of the Park and the surrounding community. The ARTIST shall participate in at least one community meeting and two other public meetings, as shall be determined by the CONTRACT ADMINISTRATOR.

**TIMELINE FOR COMPLETION:** ARTIST shall be aware of Park design and construction timelines and shall ensure that all artwork components are completed and installed according to the established schedule.

**PERMITS:** It shall be ARTIST'S responsibility, where applicable, to obtain all necessary permits as required by City through Contract Administrator , and provide proof of same to the Contract Administrator prior to fabrication. The CITY agrees to pay for any required permit fees.

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**EXHIBIT A-1**

**PROJECT SCHEDULE**

DRAFT

## **EXHIBIT B**

### **COMPENSATION AND SCHEDULE OF PAYMENTS**

ARTIST will be paid the specified installment, upon submitting invoice and documentation substantiating satisfactory completion of the portion of the Work for which payment is requested and upon Contract Administrator's acceptance of said portion of the Work; all as detailed in the submitted invoice. CITY shall pay ARTIST the total sum of Four Hundred and Ninety-Five Thousand Dollars (\$495, 000.00) for Work that shall include all costs associated with design development and fabrication of the artwork, materials, labor by sub-consultants and subcontractors, delivery and installation. No amount shall be paid to ARTIST for reimburseable expenses.

Payments to ARTIST shall be made for Work satisfactorily completed according to the following schedule:

1. One Hundred Forty-Eight Thousand Five Hundred Dollars (\$148,500.00 Dollars) which is approximately 30% of the fixed fee, to be paid upon execution of this Agreement.
2. Ninety Nine Thousand Dollars (\$99,000.00 Dollars), which is approximately 20% of the fixed fee, to be paid upon submission to and acceptance by the CONTRACT ADMINISTRATOR of all conceptual design deliverables as written in the Scope of Work and obtaining approval of the artwork conceptual design proposal from the Art in Public Places and the City Commission.
3. Ninety Nine Thousand Dollars (\$99,000.00 Dollars), which is approximately 20% of the fixed fee, to be paid upon submission to and approval by the CONTRACT ADMINISTRATOR of photographic documentation demonstrating that the artwork is 100% fabricated. At Contract Administrator's sole option, Contract Administrator may deem that a physical inspection of the artwork is warranted prior to acceptance and payment, and ARTIST shall make the artwork available to Contract Administrator.
4. One Hundred Forty-Eight Thousand Five Hundred Dollars (\$148,500.00 Dollars) which is approximately 30% of the fixed fee, to be paid upon delivery, installation, and acceptance of the artwork.

**EXHIBIT C**

Catalog # \_\_\_\_\_

**CITY OF MIAMI BEACH ART IN PUBLIC PLACES**

**CATALOGING FORM**

1. Artist Information

A. 1. Name:

2. Name you want to use on label and PR materials, if differs from above:

B. Date of Birth:

C. Place of Birth:

D. Address, e-mail, web site:

E. Contact Phone numbers

Business:

Home:

Fax:

F. One paragraph biography of artist:

II. Work of Art

A. Title:

B. Medium:

C.1. Dimensions in inches or centimeters:

H:

W:

D:

2. Image with frame (if any):

H:

W:

D:



D. Frame Description:

E. Inscription, marks:

F. In case of portable and multiple artwork, note on artist preference for display (ex: sequential series, installation height, spacing, etc...):

G. Artwork with electronic components used:

-Name of item:

-Manufacturer info (address, telephone, fax, e-mail):

-Supplier info (address, telephone, fax, e-mail):

H. Artist's statement:

### III. Fabrication Information

A. Material(s) used in Artwork:

B. Material Finish:

C. Materials used in the presentation of the project (maquette):

D. Fabricators (name, address, phone, fax, e-mail, web site):

E. Fabrication method (attach diagrams or drawings):

F. Architect/Engineer (name, address, telephone, fax, e-mail):

IV. Installation

A. Installation executed by (name, address, phone, fax, e-mail, website):

B. Installation method (attach diagram of substructure, footings):

C. Date of Installation:

V. External Factors

A. Describe physical positioning of the artwork:

B. Describe existing environmental factors which may affect the condition of the artwork:

C. If the work is site-specific, describe the relationship of the work to its site:

VI. Maintenance (attach schedule of maintenance for specific items: light bulb, electronics etc...)

A. Short-term:

B. Long-term:

C. Note desired appearance of the artwork:

VII: Digital copies for use in repair of sound art and graphic reproduction:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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